

INTERNATIONAL ADMINISTRATION

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To
Mary Sherwood Hill

PREFACE

Administrative agencies have come to occupy an important position in international organization. The range of interests affected by them has been steadily expanding during recent decades, so that at the present time they offer an attractive field for the investigator. A number of very serviceable monographs have already appeared relating to selected agencies and activities, which the author of this volume has been glad to use.

The contents of this book are not limited to a consideration of any one administrative system. It is rather the purpose to present an analysis of the methods and powers of international administrative bodies viewed collectively. Diplomatic conditions surrounding their establishment and the details of their practical operations have been given only secondary consideration. Monographs devoted to separate organs are better adapted to the inclusion of such material.

As explained in Chapter I, the word "administration" is used in rather a broad sense in this volume. It is believed that this interpretation is justified by reason of the fact that the machinery of international organization is less developed than that of national governments, with the result that administrative control within the former is generally less direct than in the latter. The exclusion of agencies exercising indirect or informal control would involve, therefore, the omission of a large number which in fact are of great importance in shaping state policies.

Acknowledgment is gratefully made of assistance from several outside sources in the preparation of this volume. Professor Charles Cheney Hyde of Columbia University

read the manuscript and offered numerous suggestions of great value. Constructive criticisms of the manuscript have also been made by Professor Pitman B. Potter of the University of Wisconsin. Professor G. H. Stuart of Stanford University very kindly permitted the author to use his monograph on *The International City of Tangier* in advance of its publication. The decisions as to the content of the volume were all made by its author, however, and he alone assumes responsibility for it.

Much of the material contained in Chapter VIII has been published in *The American Political Science Review*, November, 1929. The editor has permitted it to be incorporated in this volume.

N. L. H.

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INTERNATIONAL ADMINISTRATION

CHAPTER I

THE ROLE OF INTERNATIONAL ADMINISTRATION

If administration is to assume an international character it is necessary that it be undertaken jointly by the agents of two or more states or by representatives of a community of states, such as the League of Nations. In both instances the operations in question are conducted through the cooperative efforts of a group of states which, presumably, have a common interest in the subject at hand.

Classification of International Administrative Agencies on the Basis of Powers.

International administrative agencies may be classified either (on the basis of the powers which they possess) or according to the methods of international action which they embody.) From the former point of view, organs with the power of controlling or managing designated entities or affairs qualify as administrative in the narrower sense of the word. The commission in charge of the Saar Basin is of this character.¹ International control is frequently exercised indirectly through supervisory bodies, as the mandate system indicates, rather than through organizations authorized to have immediate charge. Agencies of this type are regarded as falling within the scope of this volume, but the nature of their functions will be brought out later in the discussion.

¹ Treaty of Versailles, Part III, Sec. IV, Annex II.

There are other types of functions which may be called administrative when that term is used still more broadly to include activities involving little or no positive powers of control. One of the most common operations falling within this category is the collection and distribution among states or individuals of information pertaining to matters of general interest. While agencies with informational duties generally lack the power of controlling states or individuals through decisions of their own making, the facts which they disseminate may be voluntarily accepted as basic to actions. In such instances the information submitted takes on the character of a recommendation which may or may not be followed. A number of agencies engaged in this work may also, upon request, furnish states with opinions or advice relating to questions under discussion. The Bureau of the Universal Postal Union, in a more or less informal manner, gives opinions to states. On account of the actual influence of such agencies over state policies, they will be included in this discussion. It is not intended, however, to include organs which are advisory to other international agencies, such as the groups of technicians used in international conferences or the technical commissions of the League of Nations which are advisory to the Council.

Informational agencies have usually been given other duties of a ministerial nature to perform, as the registration of documents, the custody of archives, and the settling of accounts among participating states. The performance of these functions does not involve control, except over the machinery and processes to which they are attached. Only incidental attention will be given to activities of a purely ministerial character in this volume.

Methods of International Administration.

The methods of international administration may be divided into several groups according to the relation

which the agencies of administration bear to the governmental machinery of the participating states. The variety of arrangements which this basis of distinction permits is such as to provide a high degree of adaptability of the agency to the requirements of a situation and to the intentions of the nations concerned. They will be briefly mentioned at this point and in later chapters will be discussed more fully.

It should be noted in the first place that there are a number of administrative organs which are entirely divorced from national governmental systems, and whose personnel is in no way subject to national control. Within this group are the Secretariat of the League of Nations, the bureaus of a number of international unions such as the Universal Postal Union, and the secretariats of many commissions, including the International Commission for the Danube.¹ As a rule, agencies of this type are engaged in informational activities or in work of a ministerial character.

A second method of international administration, which involves somewhat less relinquishment of control on the part of the states participating, is through the use of an international commission. It is the general rule that an administrative commission is composed of the representatives of the participating states. The Reparation Commission for Germany, by way of illustration, was intended to comprise the nominees of the United States, Great Britain, France, Italy, Japan, Belgium, and the Serb-Croat-Slovene State.² There are, to be sure, a small number of commissions whose members are not appointed nationally, but in these cases it is the usual practice that the appointees, either in whole or in

¹ For these organizations see, respectively: the Covenant of the League of Nations, Art. 6; *Treaty Series* (League of Nations), Vol. 40, pp. 43-45; *British and Foreign State Papers*, Vol. 114, p. 542.

² Treaty of Versailles, Part VIII, Annex II, Par. I. The American member was appointed in the capacity of an "unofficial observer" without full membership.

part, must be taken from designated nations. The Saar Basin Governing Commission is of this character. The Council of the League of Nations is obliged to select a native of the Saar Basin as one of the five members of the body and another must be a citizen of France.¹

Several public international unions involving administrative activities combine these first two methods in such a manner that both a commission and officials with an international status are employed. For instance, the International Commission for the Danube has a secretariat composed of agents who are free from national control.² Similarly, the Bureau of Weights and Measures acts under the supervision of a commission.³ In cases of this character the public union in question is commonly designated a "bureau" if the commission has no independent powers of control and is merely a supervising agency to direct a permanent office authorized to perform stated informational or ministerial duties. If, however, the commission is administrative in the sense that it has powers of control, and the permanent office has the sole function of serving it, the union is generally known by the name of the commission.

Finally, there are several methods of international administration which emphasize the use of national agencies to an even greater extent than is done in the case of the commission. Among them the existing mandates over former German and Turkish territories occupy an important position. The agencies of administration which are employed in the mandated regions are exclusively those of the respective mandatory states, but they operate under the supervision of the League of Nations.

Various schemes of condominium in backward areas also embody a method of international administration which emphasizes the use of national agencies. It is

¹ *Ibid*, Part III, Sec. IV, Par. 17.

² *Treaty Series* (British), 1922, No. 16.

³ *British and Foreign State Papers*, Vol. 116, p. 567.

characteristic of such arrangements that there is an obligation on the part of the officers of a number of states, acting either as individuals or collectively in a commission, to cooperate in the administration of the territory in question. The government of the Sudan by Great Britain and Egypt under the convention of 1889 affords an instance of condominium.¹ The government of the City of Tangier under the convention of 1923, as revised in 1928, is divided between several European powers acting in collaboration with the native authorities.² During the period of French and Belgian occupancy, the Ruhr was governed under a temporary régime of a similar nature.³

Other instances of international administration through the employment of national agencies may be found in certain backward or weak states which have agreed to accept the assistance of officials from another nation with respect to specified matters. The international character of such administrative actions results from the concerted operations of the officers of more than one state, similar to the condition of affairs which has been described in the case of condominium. The joint control by the United States and Haiti over the collection of customs, the management of finances, and the maintenance of an efficient constabulary in Haiti under the treaty of 1915 is an example of this type of international administration.⁴ Similarly, the cooperation of the Government of the United States with that of Nicaragua in the management of the Nicaraguan election of 1928

¹ For the convention of 1889 see *Peace Handbooks*, No. 98, p. 165.

² For the convention of 1923 see *British and Foreign State Papers*, Vol. 117, p. 499; and for the revised convention of 1928 see *Treaty Series* (British), No. 25, 1928.

³ For documents relating to this instance of international administration see TOYNBEE, A. J., *Survey of International Affairs*, 1924, App. VIII, and pp. 268-323.

⁴ *Treaties, Conventions, International Acts, Protocols, and Agreements between the United States of America and Other Powers*. Vol. III, p. 2673.

involved joint control by those two countries.¹ While arrangements of this nature are often discussed in other connections, their bearing upon the subject of international administration is usually ignored.

National Consent as a Basis of International Administration.

The conventional basis of international administration indicates that participation by a state in a given activity is a voluntary matter. It therefore follows that considerations of policy and self-interest are dominant in a nation's decision to take part or to remain an outsider. Even in a joint administrative enterprise such as that found in the Ruhr during French and Belgian occupancy, consent may be regarded as having been given by Germany in her acceptance of the Treaty of Versailles.² Similarly, the collection of customs in a debtor nation with the assistance of a strong state is based upon consent.

In order to insure the utmost freedom of action to states participating in international administration, the requirement that the decisions of the conferences controlling administrative agencies shall be formed by unanimous action is frequently made. The Convention of the Universal Postal Union is quite unusual in its provision that proposals made to the Congress are divided into three groups, some of which may be adopted only by unanimous action, some by a two-thirds majority, and others by a simple majority.³ Most conventions do not refer to the matter at all, since it is understood that any alteration of policy may be effected only by

¹ For documents relating to this instance of international administration see *The American Journal of International Law*, Supplement, Vol. 22, pp. 118-124.

² The Treaty of Versailles, Part VIII, Sec. I, Annex II, Par. 17 and 18, allows the Allied and Associated Powers to resort to reprisals and to take other measures deemed necessary against Germany in the event that the latter is found at default by the Reparation Commission. It is not clear

• whether such action must be taken collectively or not.

³ *Treaty Series* (League of Nations), Vol. 40, p. 43.

an amendment of the convention itself or of the *règlement*, which would necessitate the same unanimity of action that characterized their original adoption.

The commissions which are often provided for the purpose of supervising ministerial or informational bureaus operate for the most part upon the basis of majority rule. Article 12 of the Convention establishing the Bureau of Weights and Measures reads in part, as follows:

Questions upon which a vote is taken in the committee shall be decided by a majority of the votes cast. In case of a tie, the vote of the chairman shall decide.¹

Most of the conventions creating bureaus with supervisory committees do not specify the voting methods of the latter, but in practice unanimity is generally disregarded.

Independent administrative commissions with powers of control are frequently allowed to use the majority rule. The International Commission of the Danube makes decisions by a "majority vote of two-thirds of the members present."² The Elbe Commission allows decisions by simple majority, "save in the cases mentioned in the present convention where a special majority is required."³ Among the notable exceptions later mentioned in the convention are the requirement that a decision fixing dues on the river must meet with the approval of at least seven states, and the stipulation that the Secretary-General and assistant Secretary-General must be chosen by the unanimous vote of the commission. The Treaty of Versailles, in its description of the Reparation Commission, gives a list of six subjects with reference to which unanimity is necessary, with the provision that "all other questions shall be decided by a

¹ *Treaties, Conventions, etc.* The Convention of 1875 was amended in 1921 but the above quotation was not altered.

² *Treaty Series* (British), No. 16, 1922.

³ *Ibid.*, No. 3, 1923.

vote of the majority.”¹ International sanitary councils, like commissions, have adopted the majority rule in one form or another.

The Development of International Administration.

International administration in its present form was not possible until the modern state-system came into existence. Before that time, however, unions or leagues had been formed among political units, some of which provided for the joint administration of designated affairs. For instance, the Amphictyonic League of ancient Greece, an organization concerned primarily with religious interests centering about the temple of Apollo at Delphi and only incidentally with political affairs, was of such a character.² While there were no general executive offices for the League, and its main organ was a representative Council, there were a small number of administrative agents to manage the common purse, to provide a common coinage, and to have charge of the temple.

As a rule, combinations of political units were either compactly joined together into federal unions or they were so loosely connected as to constitute mere alliances, with the result that in neither instance were there administrative efforts comparable to those of modern international relations. Well-known leagues among the Greek city-states, such as the Achaian League, the Boeotian League, and the Aetolian League, were federal unions, and consequently the administrative activities under-

¹ Treaty of Versailles, Part VIII, Sec. I, Annex II, Art 13 The following matters require unanimity: (a) questions involving the sovereignty of any of the Allied or Associated Powers, or the cancellation or reduction of German obligations, (b) questions relative to the conditions of bonds issued by Germany, (c) the postponement after 1930 of obligations due between 1921 and 1927, (d) the postponement for a longer period than three years of obligations falling due after 1926, (e) the adoption of new methods for measuring damages, (f) the interpretation of this part of the treaty.

² FREEMAN, E. A., *The History of Federal Government*, Vol. I, pp. 123-143, and CURTIUS, E., *The History of Greece*, Vol. I, pp. 125-130.

taken were not analogous to those which come within the purview of international administrative systems today.¹

During the five centuries of Roman hegemony, international administration was not possible on account of the absence of a state-system to serve as its basis. The world was essentially one state, known as the Roman Empire, and the administrative system of the world was Roman, maintaining contacts with many nationalities.²

The medieval period of history was also lacking in the background which is necessary to international administration as we understand it today. The European city-states, which existed in large numbers from the twelfth century to the fourteenth, formed leagues, but their programs of cooperation were usually confined to common defense and commercial activities. Even so strong a league as the Hanseatic League was not interested in the performance of administrative functions.³ Both the Church and the Holy Roman Empire maintained administrative officers for territories which included many feudal principalities and nationalities, but their activities did not constitute cooperative enterprises of sovereign states.

The modern state-system is understood to have become definitely recognized with the termination of the Thirty Years War in 1648. Following that date, for a period of about a century and a half international administrative efforts were little in evidence. Control over undeveloped areas was generally direct and exclusively national, involving annexation rather than attempts to cooperate with native governments in the management of common interests. Even in territories governed through the instrumentality of private corporations, such as the British East India Company, the country chartering the company claimed full title to the backward area in

¹ FREEMAN, E. A., *op. cit.*, pp. 185-208; 219-322.

² See ARNOLD, W. T., *Roman Provincial Administration*, Oxford, 1914.

³ CLARKE, M. V., *The Medieval City State*, p. 183, London, 1926.

question, with the result that the administration assumed a national character.

International administration was first given a position of prominence during the early part of the nineteenth century through the creation of a number of commissions and councils. The Rhine River Commission was created in 1804 to deal with the navigation of that river.¹ Prior to that time the separate regulation of the river by the littoral states had resulted in much inconvenience and expense to commerce. By the treaty of 1804 a group of uniform regulations and tolls were adopted and a commission with a Director-General of the tolls was established to assist in the execution of the document.

A few decades later the necessity for taking concerted action to prevent the spread of epidemics, which had been particularly ravaging in the districts of trade, became evident, in answer to which international sanitary councils were set up at Constantinople in 1838 and at Tangier in 1840.² These agencies were empowered to supervise quarantine and in other ways to prevent the spread of infectious diseases.

Nearly all of the international administrative agencies now in existence were established since 1850.³ Each

¹ MARTENS, G. F., *Recueil de traités*, Vol. VIII, p. 261.

² MARTENS, G. F., *Nouveau recueil générale* (3d Series), Vol. I., p. 156, Arts. 165-175, and p. 161, Art. 176.

³ The *Handbook of International Organizations*, 1929, pp. 9-10, refers to twenty-five public agencies established since 1850. Omitted from the list, however, are temporary organs, the administrative machinery of the League of Nations, and a number of other agencies such as the International Boundary Commission for Canada and the United States. The dates for the establishment of those twenty-five bodies may be arranged by periods as follows:

1850-1875	5
1876-1900	7
1901-1915	4
1916-1929	9

The foundation of nine agencies since 1915 is indicative of the emphasis which contemporary international organization places upon administration.

was created to meet a specific need which had developed with respect to the subject-matter in question.

One of the main forces contributing to the recent development of international administration has been the rapid growth of commerce, which has placed in the foreground a need for organs dealing with means of communication. With the growing complexity of international commercial relations, rivers passing through two or more states and those serving as national boundaries became vital as avenues of trade. In fact, the basis of the rights now possessed by states to navigate waters passing through foreign territories is the interest of the community of nations in assuring reasonable facilities of communication to states in need of them.¹ In accordance with this interest a large number of international agreements have been made defining the rights of states. Some of them, similar to that of 1804 relating to the Rhine, created administrative commissions.

The principles of the Act of the Congress of Vienna dealing with the navigation of international rivers were applied to the Danube by the Treaty of Paris, signed on March 30, 1856.² Since Turkey had not been admitted into the European state-system prior to that time, there had been no attempt to place the river on an international basis at an earlier date. Both the lower and upper portions of the Danube were brought under the international régime of 1856.³

Other rivers have been placed under the control of international organs by more recent agreements. The Congo was provided with an international commission by the General Act of Berlin of February 26, 1885.⁴ The Treaty of Versailles created administrative organs

¹ See HYDE, C. C., *International Law*, Vol. I, pp. 211-212, Boston, 1922.

² *British and Foreign State Papers*, Vol. 46, p. 8.

³ Austria objected to the application of the system to the Upper Danube at the Congress of Paris but yielded in the end. See KÆCKENBEECK, G., *International Rivers*, in *Peace Handbook*, Vol. 23, pp. 30-31.

⁴ *British and Foreign State Papers*, Vol. 74, p. 4.

for the Elbe and the Oder Rivers, and further provided that the Niemen River might be given a commission by the League of Nations at the request of any riparian state.¹

Means of communication other than rivers have occasioned the establishment of administrative machinery. The Bureau of the Universal Postal Union affords an illustration of agencies of the informational and ministerial type which have been set up in answer to current needs.² Prior to the foundation of the Universal Postal Union business and commerce were handicapped by the complicated systems of rates which were applied to international postal traffic. Since the beginning of the nineteenth century a number of postal conventions had been concluded among the nations, but they were not formed upon the basis of any uniform principle.³ The units of weights differed among states considerably. For instance, in England and the United States the rates were calculated by the half ounce, in France they were computed per ten grammes, and in Spain per seven and a half grams.⁴ It was necessary for postal employees to apply these various systems of charges to a letter in international transit. Furthermore, the charges were unreasonably high on account of the fact that there were added together the rates applying in the country of origin, the country of destination, the countries crossed, and in some cases a maritime transport tax also. Postmaster-General Blair of the United States in 1862 advocated a conference for the purpose of placing international postal traffic on a sounder basis. In justification of his proposal he asserted that "an international postal

¹ Treaty of Versailles, part XII, Sec. II, Chap. 3.

² For a history of the union before 1910 see LACROIX, G., *Exposé du système générale de L'Union Postale Universelle*

³ *L'Union Postale Universelle*, Sa fondation et son développement, pp. 6-7, publié par le Bureau international, Berne, 1924.

⁴ *Idem.*

arrangement established on a common basis is of primary importance, from the point of view not only of commercial activities, but also of social activities."¹ In response to this request a conference met at Paris in 1863, at which fifteen states were represented. The meeting confined itself to the discussion and adoption of the general principles which should control an international system.²

During the ten years following the conference of 1863 postal intercourse among states increased with much rapidity. While the impediments to international traffic were somewhat decreased by special arrangements arising out of diplomatic correspondence based on the principles which had been adopted, it still remained true that the diversity of regulations was annoying.³ At the initiative of Germany a new conference was called at Berne in 1874, for the purpose of considering the establishment of a union. The convention adopted at this meeting provided for the establishment of the Universal Postal Union and for the application of common principles in international traffic. As a result the postal service of the world has been immeasurably simplified.

It may be observed that, as new methods of international communication have been introduced, international organs have been established to deal with them, either by the exercise of control or through the performance of informational and ministerial functions. The International Telegraphic Bureau was founded in 1868, and in 1906 it was given duties relating to wireless

¹ *Ibid.*, p. 9.

² *Ibid.*, pp. 9-13. The text of the thirty-one principles adopted is contained in these pages.

³ *Ibid.*, pp. 13-22. On p. 22 average rates on letters (per kilogram) sent in 1873 from Switzerland to other states are given. They show the same diversity and exorbitance existing before 1863. For instance, the charge per kilogram on letters going to England through Germany and Belgium was 11 francs and 66 centimes, while the rate on the same material going via France was 29 francs.

communication.¹ Prior to 1868, the international regulation of telegraphic correspondence was attempted by bilateral treaties, but the results were not regarded as satisfactory. In 1893, the Central Office of the Union of Railway Freight Transportation was created to perform informational and ministerial functions relating to railway traffic in Europe.² More recently, in 1919, international aerial communication has necessitated the establishment of an international organ.³

A second important force contributing to the development of international administration since 1850 has been the expansion of industrial and commercial interests. For instance, the Bureau for the Protection of Industrial Property was founded in 1883.⁴ National laws and bipartite conventions entered into before 1883 had not provided adequate protection to industrial property of foreigners.⁵ By the convention of 1891 the duties of the bureau were extended to the registration of trade marks.⁶ The Union for the Protection of Literary and Artistic Property, formed in 1888, has maintained a bureau which has operated in conjunction with the Bureau for the Protection of Industrial Property.⁷ Other agencies which have been established to deal with subjects of an economic or industrial nature include the

¹ For the texts of the treaties of 1868 and 1906, see respectively: *British and Foreign State Papers*, Vol. 56, p. 294, and *Treaties, Conventions, etc.*, Vol. II, p. 1,949. As originally created the Bureau was known as "The International Bureau of Telegraphic Administrations."

² *Handbook of International Organizations*, p. 204, 1929.

³ *British and Foreign State Papers*, Vol. 112, p. 931.

⁴ *Ibid.*, Vol. 74, p. 44.

⁵ LADAS, S. P., *The International Protection of Industrial Property*, Cambridge, 1930, p. 73. At the time of the International Exposition in 1873 attention was called to the danger of displaying inventions in the absence of adequate international protection. At a Congress for Patent Reform in 1873 several resolutions were adopted. In 1878 and 1880 congresses were held at Paris to deal with industrial property, but it was not until 1883 that a bureau was created.

⁶ de CLERCQ, J., *Recueil des traités de la France*, Vol. 19, p. 72.

⁷ *British and Foreign State Papers*, Vol. 77, p. 22.

following: the Bureau of Weights and Measures, Bureau for the Publication of Customs Duties, the International American Office for the Protection of Trade Marks. Most of the agencies which have been set up in this field of interest are informational and ministerial.

A third major cause for the rapid development of international administration during recent decades has been the increasing complexity of international relations, producing many controversial situations, which, it has been felt, can be better managed by the special agents of the states concerned acting collectively or jointly than by the representatives of one nation alone. The competition of France and Great Britain before 1906 for the control of the New Hebrides resulted in the establishment of a condominium.¹ The International Joint Commission of the United States and Canada, as provided by the convention of 1909, deals with a subject which had been a cause of controversy.² Many of the temporary administrative organs created by treaties of peace, such as the reparation commissions and the Governing Commission for the Saar Basin, deal with complex problems which made it desirable to establish joint control of some sort. The present system of international administration for the City of Tangier arose out of the competition of France, Spain, and Great Britain for the control of the area, which became particularly apparent after the Madrid Conference of 1888.³

Other conditions which have contributed to the expansion of international administrative activities since 1850 should be mentioned. The interest of large powers in less developed countries has led, in a number

¹ For the convention of 1906 as modified in 1922 see *ibid.*, Vol. 116, p. 457. The arrangement of 1906 was made possible by the Anglo-French agreement of 1904 which intended to make adjustments with respect to areas that had been the object of competition.

² *Treaties, Conventions, etc.*, Vol. III, p. 2,607.

³ STUART, G. H., *The International City of Tangier*, p. 81, Stanford University, 1931.

of instances, to joint control over such matters as the collection of customs and the administration of elections within the latter. The increasing attention which has been given in science and in national governments to health, labor, and other interests belonging to the field of social relations, has laid the foundation for international agencies of an informational nature dealing with the same subjects.

CHAPTER II

INTERNATIONAL COMMISSIONS WITH POWERS OF CONTROL

Among the agencies that have been established to administer under the authority of international conventions the commission looms large in general usefulness and importance. The frequency with which it has been utilized is due, in part, to the simplicity of its mechanism, the readiness with which it is created, and the variations of structure and jurisdiction with which it may be endowed. In spite of the differences among existing commissions, it is characteristic of them that they are composed on a representative basis, with the result that individual members are usually delegates of the states from which they come. From the point of view of practical politics, the control which participating states may exert over the personnel of bodies of this type may be a further inducement to employ them extensively.

The international commission has been utilized in the following connections relating to administrative activities: (1) as independent organs with powers of control over designated areas or affairs, (2) as supervisory agencies for permanent bureaus, and (3) as special machinery created under the auspices of the League of Nations. It is the purpose of this chapter to confine itself to independent commissions possessing powers of control; the two other uses to which it has been put will be discussed in later chapters.

The Size of International Commissions.

The size of administrative commissions varies considerably. There have been many that have contained

only two persons, representative of the states that are most concerned with the subject-matter in question, and selected under the provisions of a bilateral treaty. The International Joint Commission of the United States and Canada is of this type. Rarely does it happen that a commission is composed of more than ten members, unless they are merely supervisory organs for public bureaus, and in the majority of cases participation is restricted to from five to nine. The International Commission for Air Navigation, created by the Convention for the Regulation of Aerial Navigation in 1919, contains one delegate from each of the thirty-two signatory powers excepting the United States, France, Italy, and Japan, which are each allowed two delegates, and the British Empire, which is given separate representation from each of the Dominions and India.¹ In other instances the principle of allotting a number of delegates to each of the contracting parties has been followed but usually without involving so large a commission. The following table indicates the range of membership of a selected group of well-known commissions:

Inter-Allied Commission of Control for	
Germany (military)	5
Elbe River Commission	10
Oder River Commission	9
Straits Commission	10
Commission for the Saar Basin	5
Inter-Allied Rhineland High Commission	4
Reparation Commission (Treaty of Versailles).	7 (only 5 at one time)
Central Rhine Commission	19
Upper Silesia Plebiscite Commission	4

In special cases administrative duties have been turned over to single commissioners instead of commissions. Article 107 of the Treaty of Lausanne of 1923 makes the following provisions:

¹ *Treaties, Conventions, etc.*, 1910-23, Vol. III, p. 3778.

Travellers and goods coming from or destined for Turkey or Greece, and making use in transit of the three sections of the Oriental Railways included between the Graeco-Bulgarian frontier and the Graeco-Turkish frontier near Kuleli-Burgas, shall not be subject, on account of such transit, to any duty or toll nor to any formality of examination in connection with passports or customs. A commissioner, who shall be selected by the Council of the League of Nations, shall ensure that the stipulations of this article are carried out. The Greek and Turkish governments each have the right of attaching a representative to this commissioner.¹

The League of Nations, under Article 103 of the Treaty of Versailles, appoints a High Commissioner for the Free City of Danzig, with certain powers of control over the government of the city.² For the purpose of assisting in the financial reconstruction of Austria and Hungary the League sent single commissioners to those states in 1923 and 1924, respectively.³ The Dawes Plan called for the appointment of the following individual commissioners: the Commissioner of Controlled Revenues, the Commissioner for the German Railways, the Commissioner of the Reichsbank, and the Agent-General for Reparation Payments.⁴ Generally practice has favored the use of commissions rather than individual commissioners, even though instances where the latter have been appointed are not difficult to find. The characteristic of the former which induces nations to employ them frequently in preference to individual agents is the fact that commissions may contain officials taken from many, or even all of the interested parties. There is doubtless a measure of justification in the application of the representative principle to administrative bodies with large powers of direction, where national points of view may be desired.

¹ *British and Foreign State Papers*, Vol. 117, p. 581.

² For the duties of this official see Chapter IV.

³ For the protocols regulating this work see the *Official Journal*, p. 1,470 (Austria), November, 1922, and p. 802 (Hungary), May, 1924.

⁴ See *The American Journal of International Law*, Supplement 19-20, for the text of the Dawes Plan.

Methods of Selecting International Commissions.

The members of commissions are usually appointed by the states which are entitled to representation. There are two other methods which, however, provide infrequent exceptions to this rule.

The League of Nations makes available an international mechanism which conceivably may be brought into play for the selection of members of administrative bodies, and in a few instances arrangements have been made for its utilization in the composition of commissions. Under the Treaty of Versailles the personnel of the Saar Basin Commission is "chosen by the Council of the League of Nations, and will include one citizen of France, one native inhabitant of the Saar Basin, not a citizen of France, and three members belonging to three countries other than France or Germany."¹ The commission provided for by the pact between Greece and Turkey in 1923 relating to the exchange of minority populations included eleven persons, of whom eight were chosen by the contracting parties and three by "the Council of the League of Nations from among nationals of powers which did not take part in the war of 1914-1918."² The Treaty of Versailles created commissions of five on social and state insurance in ceded territories, on each of which one member was "appointed by the German Government, one by the other interested Government, and three by the Governing Body of the International Labor Office from the nationals of other states."³ It is rare, however, that a permanent institution other than the League of Nations has been allowed to choose any portion of the personnel of an administrative commission.

¹ Treaty of Versailles, Part III, Sec. IV, Annex, Par. 17.

² *British and Foreign State Papers*, Vol. 118, p. 1051.

³ Treaty of Versailles, Part X, Sec. VIII, Art. 312. Similar arrangements were made in the Treaties of St. Germain and the Trianon; see *ibid.*, Vol. 113, pp. 460, 610.

On certain occasions committees are either wholly or in part on an *ex-officio* basis. The Treaty of Lausanne of 1923 created a Sanitary Coordination Commission of Pilgrimages to develop uniformity in the regulations issued by individual nations in accordance with existing sanitary conventions, and provided that the Sanitary Service of Turkey and the Maritime Sanitary and Quarantine Council of Egypt should always be represented thereon.¹ By the same treaty a commission of four was named to deal with the Turkish debt, in which a member of the *Conseil de la Dette Publique Ottomane* was given membership.² The purposes of such arrangements are to coordinate the efforts of separate bodies and to bring into play the experience and understanding of officials acquainted with a given problem.

The Duration of International Commissions.

From the point of view of duration commissions may be conveniently placed in two groups. The majority of them are constituted to accomplish certain designated tasks with the understanding that they will expire when the work is done. Temporary bodies have been created by peace treaties to deal with the arrangement of plebiscites, the administration of reparation clauses, and other matters of a similar nature.

Permanent administrative commissions have been set up during recent decades in ever-increasing numbers. It is characteristic of such agencies that the duties which they perform are continuous. Commissions dealing with international waterways and with communication are generally of this type.

Organization and Methods.

International commissions are organized in a simple fashion to provide the officers and machinery which are

¹ *British and Foreign State Papers*, Vol. 117, p. 584.

² *Ibid*, p. 556.

necessary for the accomplishment of their purposes. In most instances a chairman or president is appointed to preside at the meetings of the body and to act as its executive. He may be named *ex-officio* as the representative of a selected member-state; he may be chosen by the commission itself; or he may be nominated by an exterior authority which is also empowered to name the entire personnel of the group. By Article 12 of the Straits Convention of 1923 the president of the Straits Commission is always the Turkish delegate.¹ The Treaty of Versailles contains the following stipulation relative to the chairmanship of the Reparation Commission:

At its first meeting the Commission shall elect from among the delegates referred to above, a Chairman and a Vice-Chairman, who shall hold office for one year and be eligible for re-election. If a vacancy in the Chairmanship or Vice-Chairmanship should occur during the annual period, the Commission shall proceed to a new election for the remainder of the said period.²

The Saar Basin Commission is illustrative of the third type mentioned. In this commission the chairman is named by the Council of the League of Nations, the same authority which selects the entire membership of the organ.³

Among some of the more highly organized commissions it has been customary to create other officers. Permanent secretariats, under the charge of a secretary-general, are in some cases provided to assist commissions in the conduct of their work. These bodies are intended to provide clerical services for the commissions to which they are attached, and do not have duties which they perform independently, as is ordinarily true of bureaus. The International Commission of the Danube has constructed more auxiliary machinery than have other

¹ For the text of the Convention, see *The American Journal of International Law*, Supplement 18, p. 60.

² Treaty of Versailles, Part VIII, Sec. I, Annex II, Par. 6.

³ *Ibid.*, Part III, Sec. IV, Annex, Par. 18.

commissions. It comprises the following: (a) a permanent secretariat, (b) a technical department, (c) a navigation service, and (d) an accounting and tax-controlling department.¹ The secretariat of the Elbe Commission is governed by the following provisions:

A secretariat shall be set up at the seat of the Commission, comprising a Secretary-General and an Assistant Secretary-General, aided by the necessary staff.

The members of the secretariat shall be appointed, paid and dismissed by the Commission.

The Secretary-General and the Assistant Secretary-General shall be chosen by the unanimous vote of the Commission. They may not belong to the same nationality.

The Secretary-General is in particular entrusted (a) With the custody of the archives; (b) With the despatch of the current business of the Commission; (c) With the submission to the Commission of an annual report on the shipping situation and on the navigable state of the river

The Assistant Secretary-General will take part in the preparation of all the business, and in the absence of the Secretary-General will take his place ²

Boundary Commissions.

It will be possible to explain the role of the administrative commission more fully by descriptions of specific organs. For purposes of convenience it is proposed to classify them on the basis of subject-matter.

There is one commission of outstanding importance whose duties relate to the management or upkeep of an established boundary line. This is the International Joint Commission of the United States and Canada, created by the convention of 1909 to deal with the boundary waters of the two countries. It consists of six persons, "three on the part of the United States appointed by the President thereof, and three on the part of the United Kingdom appointed by His Majesty on the recommendation of the Governor in Council of the

¹ *Treaty Series* (British), 1922, No. 16.

² *Treaties, Conventions, etc*, Vol III, p. 2607.

Dominion of Canada." Both the American and the Canadian sections of the commission appoint secretaries who act as joint secretaries at the sessions of the entire group.¹ Engineers and clerical assistants are also employed by the body from time to time. The expenses of both national sections are paid by the respective governments and the joint expenses are apportioned equally. All of the decisions of the agency are taken on a majority basis, and in the event that the commission is equally divided upon any question, separate reports are made by each section to its own government; later negotiations between the two governments will attempt to settle the controversy.

The administrative duties of the Joint Commission have to do with the use and diversion of water from the lakes and rivers which form the boundary between Canada and the United States. The commission has the power to pass upon new projects for any use or diversion of those waters which will affect their natural level, and for the construction of dams or other obstructions that will raise the level. It is also authorized to direct the measurement and apportionment of water from the St. Mary and Milk Rivers to be used for irrigation purposes. A number of principles are listed in the convention, which are intended to be applied by the commission in passing upon projects for the use of the water.

While the Joint Commission performs the administrative function of controlling designated activities by means of a system of permits, its procedure is of a judicial character.² This results from the fact that it is

¹ Two regular sessions occur annually, on the first Tuesday in April in Washington, and on the first Tuesday in October in Ottawa. Special sessions may be called at any time in either country, as the chairmen of the national sections agree.

² For a discussion of the rules of the commission, adopted in 1912, see MacKay, R. A., "The International Joint Commission between the United States and Canada," in *The American Journal of International Law*, Vol. 22, pp. 314-316.

engaged in the regulation and adjustment of conflicting claims. Furthermore, by Article IX, the organ is empowered to act in the role of a commission of conciliation to examine and report with respect to disputes "involving the rights, obligations, and interests of either in relation to the other or to the inhabitants of the other along the common frontier . . . "

The Joint Commission has been very active in performing the duties which have been assigned to it.¹ In the fifteen decisions which it has made upon the issuance of permits it has elucidated the meaning of the convention of 1909. With respect to Article VI, providing for the measurement of waters taken from the St. Mary and Milk Rivers, the commission has laid down precise rules to be followed by officials of the United States and Canada which stipulate, among other things, that reports must be rendered to it as to the measurement of all gauging stations and that disputes regarding the rules shall be settled by it. In four instances it has conducted special investigations and reported to the two governments the results of its findings. For example, between 1920 and 1922 it examined, upon request, the improvements which would be necessary in the St. Lawrence River channel to allow ocean vessels to navigate between Montreal and Lake Ontario.

Commissions Regarding Nationality Problems.

There are three main functions relating to nationality problems which have been performed by international commissions. Generally the conventions or treaties of peace dealing with the subject have been devoid of provisions for international administration. Special commissions have, however, been created in isolated cases to deal with minorities, the conduct of plebiscites, and the repatriation of prisoners of war.

¹ *Ibid.*, pp. 292, 318.

The Convention concerning the exchange of Greek and Turkish populations, signed at Lausanne in 1923, created a "Mixed Commission" of eleven members, which is the most important administrative body dealing with minorities.¹ It is the duty of this organ "to supervise and facilitate the emigration provided for in the present convention and to carry out the liquidation of movable and immovable property for which provision is made in articles 9 and 10." It is also within the province of the group to determine its own methods and to "decide all questions to which this convention may give rise." A pact of 1919 between Greece and Bulgaria, dealing with the voluntary exchange of minorities, set up a commission with powers of determining the method of emigration, supervising it, liquidating the property of emigrants, and in general to "take the necessary measures for the execution of the convention."²

Among the best known agencies of an administrative nature that have been utilized in connection with nationality problems is the plebiscite commission. Several such organs were set up by the treaties of peace at the end of the World War.

A plebiscite commission has ordinarily included from four to six persons, who are either entirely or partially representative of neutral states. The plebiscite body for Klagenfurt was made up of one member from each of the interested parties, Yugoslavia and Austria, with four appointees of the United States, Great Britain, France, and Italy, respectively.³ The commission for Upper Silesia, on the other hand, was selected entirely by the four Allied and Associated Powers just named.⁴

¹ *British and Foreign State Papers*, Vol. 118, pp. 1048-1053.

² *British and Foreign State Papers*, Vol. 112, p. 997. The commission includes four members, of whom one is Greek, one Bulgarian, and two appointees of the Council of the League of Nations.

³ *British and Foreign State Papers*, Vol. 112, pp. 349-350, Art. 50 of the Treaty of St. Germain.

⁴ Treaty of Versailles, Part III, Sec. VII, Annex, Par. 2.

The latter arrangement has been most commonly employed.

The powers of plebiscite commissions include the temporary administration of the territory in question and the general management or supervision of the balloting. The Treaty of Versailles stipulates that the commission for the plebiscite in East Prussia "shall have general powers of administration, and, in particular, will be charged with the duty of arranging for the vote . . ."¹ The same document states that the commission for Upper Silesia "shall enjoy all the powers exercised by the German or the Prussian Government, except those of legislation or taxation."² These duties are, of course, far-reaching while they last, but the period of their duration is brief, since in most instances time-limits are fixed for the arrangement of the ballot.

Administrative bodies have also been established by the recent treaties of peace to deal with the repatriation of prisoners of war. The composition and duties of commissions of this type may be seen from the following stipulations taken from the Treaty of Versailles:

The repatriation of German prisoners of war and interned civilians shall, in accordance with article 214, be carried out by a Commission composed of representatives of the Allied and Associated Powers on the one part and the German Government on the other part. For each of the Allied and Associated Powers a Sub-Commission, composed exclusively of Representatives of the interested Power and of Delegates of the German Government, shall regulate the details of carrying into effect the repatriation of the prisoners of war.³

The activities of the commissions created at the end of the World War dealing with this subject have been supplemented by those of the League of Nations.⁴

¹ *Ibid.*, Part III, Sec. VIII, Art. 95.

² *Ibid.*, Part III, Sec. VII, Annex, Par. 3.

³ *Ibid.*, Part VI, Sec. I, Art. 215.

⁴ See *Social and Humanitarian Work of the League of Nations*, p. 36, published by the Information Section of the League of Nations, Geneva, 1924.

Temporary Commissions on Social and Economic Questions.

Most of the temporary agencies that have been established in regard to social and economic questions have had their source in peace treaties. It has been their function to carry into execution certain provisions whose complexity necessitated particular attention by an organ internationally constructed. While it will not be possible, or even desirable, to review all such bodies, we may profitably survey a number of them, especially those of recent date, in order to discover the nature of their composition and methods.

The Treaty of Berlin in 1878 established only two commissions on social or economic questions which were intended to be temporary. A Turco-Bulgarian commission was appointed to settle "all questions relative to the mode of alienation, working, of use on the account of the Sublime Porte, or property belonging to the state and religious foundations, as well as of the questions regarding the interests of private persons engaged therein."¹ In the same treaty a Turco-Serbian commission was created with identical functions.²

Until 1919 treaties of peace set up such agencies only occasionally.³ The treaties of 1919 and 1920, however, were so complex that more frequent recourse to machinery of this type was necessary. Best known of all these administrative bodies are the Reparation Commissions created to deal with the amounts due from Germany, Austria, and Hungary. The Reparation Commission for Germany, which has been the most active of all, was terminated in accordance with the

¹ OAKES, SIR A. and R. B. MOWAT, *The Great European Treaties of the Nineteenth Century*, p. 339.

² *Idem.*

³ The treaty of peace between Austria, France, and Sardinia, formed in 1859, provided for only one such commission, and the treaty between Austria and Italy in 1866 also created one agency on economic matters. See *ibid.*, pp. 377, and 234.

Young Plan of 1929 and its functions taken over, in part, by the new International Bank. The two other commissions have not been able to accomplish much in the way of results on account of the inability of Austria and Hungary to pay.

The powers of the Reparation Commissions, as defined by the Treaties of Versailles, St. Germain, and the Trianon, respectively, are substantially the same. As listed by those pacts, they include the following:¹

1. The determination of the amount of the reparation by May 1, 1921.
2. The formulation of a schedule of payments to cover a period of thirty years from May 1, 1921
3. The ability to permit postponement of payment.
4. The appointment of subordinate officers and employees.
5. The establishment of rules relating to methods of proving claims.
6. The interpretation of the provisions of the treaty relative to reparations.

The composition of the three commissions varies within narrow limits. The Principal Allied and Associated Powers are assured the right of participation on all occasions, with the exception of Japan, whose delegate could be present only when damages at sea were under discussion.² Designated states are accorded membership, with the understanding that active participation in proceedings may occur only when questions involving their interests arise.³ In the event that neither Japan nor any of the other states in the aforesaid group should have a delegate in attendance at a session, the representative of Belgium is to be allowed to take part. The

¹ See Appendix II of this volume for important provisions of the Treaty of Versailles relating to the Reparation Commission.

² By the Treaty of Versailles, Japan was also given the right of participation when questions arising under Art. 260 of Part IX (Financial Clauses) and involving Japan should arise.

³ In the Treaty of Versailles only the Serb-Croat-Slovene state was mentioned in this connection; in the Treaty of St. Germain, Greece, Poland, Roumania, Czechoslovakia, and the Serb-Croat-Slovene State were allowed jointly to select one delegate who could be present when the interests of any one of those states was at stake; in the Treaty of the Trianon a similar arrangement was made.

actual composition of the Reparation Commission for Germany deviated from the provisions of the Treaty of Versailles. The United States did not take advantage of her right of official participation, with the result that the group was reduced in its meetings to four active members. By the Dawes Plan American participation was assured when the commission deliberated on any point relating to the report presented on April 9, 1924, to the Reparation Commission by the First Committee of Experts.¹

The Bank of International Settlements, recommended in the report of the Committee of Experts which was submitted on June 7, 1929, has succeeded to most of the functions formerly exercised by the Reparation Commission.² The organization of the bank, while different in matters of detail, follows that of many existing international unions. The control of the bank is vested in a Board of Directors, who are empowered to: (1) adopt or modify the statutes of the bank, in so far as the modifications are not inconsistent with the Experts' plan, (2) modify the organization of the institution, (3) appoint a chief executive officer, (4) appoint an Executive Committee and delegate to it such powers as may be allowed under the statutes, (5) select advisory committees to deal with any questions upon which information is desired. The board is composed of the Governor of the central bank of each of the seven states to which members of the Committee of Experts belonged, an additional appointee from each of those seven nations selected by the respective governors of the central banks of those countries, two persons representing the Bank of France and the Reichsbank, and nine others chosen by the sixteen already named. It appears from this brief description of the institution

¹ *American Journal of International Law*, Supplement 19, p. 49.

² For the text of the report see *The American Journal of International Law*, Vol. 24, Supplement, pp 81-161.

that emphasis is placed upon the role of the Board of Directors, which is an agency very similar to the ordinary international commission.

The powers of the International Bank qualify it both as an agency to facilitate international financial relations and as an international administrative organ in the narrower sense. In the last named capacity the bank has extensive control over the reparation payments. It acts as a trustee for reparation obligations, manages disbursements on deliveries in kind, and convenes a Special Advisory Committee to investigate German postponements of payments. The relation of the bank to the administration of the reparation accounts is explained as follows in the Report of the Committee of Experts:

A general plan for a complete and final settlement of the reparation problem, being primarily financial in character, involves the performance of certain banking functions at one or more points in the sequence between the initial payment of the annuities and the final distribution of funds. A banking institution designed to meet these requirements justifies and makes logical the liquidation of all political controls and provides instead machinery essentially commercial and financial in character, which carries with it all the support and, at the same time, all the responsibilities that economic engagements imply. The process of removing the reparation problem from the political to the financial sphere which was begun in the Dawes Plan, will thus be carried a step further.

In general terms, the institution will take over such functions of the existing agencies as it may be necessary to continue and will perform the whole work of external administration, such as the receipt and distribution of payments, and the commercialization of those parts of the annuities which are susceptible of being commercialized.¹

Another group of international agencies to be included in the general classification now under discussion are the Commissions regarding Social and State Insurance

¹ *Ibid.*, p 88.

in Ceded Territories.¹ It is provided in recent treaties of peace that the defeated states shall transfer to the nations to whom territory is ceded "such portion of the reserves accumulated . . . as is attributable to the carrying on of Social or State Insurance in such territories." Special commissions of five are created by each of the treaties, excepting that with Turkey, to assist in determining the conditions of transfer.²

The treaty of peace with Turkey, signed at Lausanne in 1923, established three administrative agencies of a temporary character. One was a commission "to determine the method of carrying out the distribution of the nominal capital of the Ottoman Public Debt . . ."³ It was made up of one representative each from the Turkish Government, the *Conseil de la Dette Publique Ottomane*, the debt other than the Unified Debt, and the interested states. The two other agencies created by the treaty were the commission to liquidate the Superior Council of Health at Constantinople, and the Commissioner on Passports and Customs in Turkey and Greece.⁴

Commissions on Social and Economic Questions Intended to Be Permanent.

Unlike temporary commissions, those intended to be permanent have usually been established by treaties formed in time of peace. They have dealt universally with peace-time problems. Sanitation and health have been subjects which in the past have elicited the interest

¹ Such commissions were created by the Treaties of Versailles, St. Germain, the Trianon, and Neuilly. See *British and Foreign State Papers*, Vol. 112, pp. 610, 790, for the provisions of these treaties.

² Each of the defeated powers, except Turkey, was to form commissions, of whom one member was to be appointed by the defeated state in question, "one by the other interested government, and three by the Governing Body of the International Labor Office from nationals of other states."

³ *British and Foreign State Papers*, Vol. 117, pp. 556-557.

⁴ *Ibid.*, Vol. 117, pp. 583 and 581.

of nations and called for the establishment of a number of permanent organs. The prevention of the spread of cholera and of plague, particularly in backward areas, made it desirable at a comparatively early date to form international sanitary councils in important centers. Consequently, in 1838, 1840, and 1881, special sanitary councils were provided by treaty for Constantinople, Tangier, and Alexandria, respectively.¹ It is characteristic of such organs that they possess rather extensive powers in regard to the subject-matter assigned to them. The *Conseil Supérieur de Santé* at Constantinople was allowed to determine measures for the prevention of the "introduction of epidemic diseases into the Ottoman Empire and their transmission to foreign countries."² It was further empowered to supervise the quarantine service at port cities and to insure the fulfillment by Turkey of her sanitary obligations. The council contained four Turks and one representative of each of the signatories, all of whom were required to hold medical diplomas. The powers and personnel of the councils at Tangier and Alexandria are in the main similar to those of the council at Constantinople. In 1892 a Sanitary, Maritime, and Quarantine Board for Egypt was established with functions and powers very much like those that have just been described.³

Commissions Relative to International Communication.

In no field of interest has the administrative commission been used so widely as in that of international communication. The dependence of many nations

¹ SAYRE, F. B., *Experiments in International Administration*, p. 52. The Superior Council at Constantinople was terminated by the Treaty of Lausanne in 1923. See *British and Foreign State Papers*, p. 533.

² SAYRE, F. B., *op. cit.*, p. 53.

³ *Treaties, Conventions, etc.*, Vol. III, pp. 3,014-3,015. In 1926 a treaty was concluded increasing the Egyptian membership on the Board from four to five and transferring the Veterinary Service from the Board to the Egyptian Government. See *Treaty Series* (United States), No. 762, Art. 163.

upon the same arteries of transportation or communication has been the cause for the conclusion of a number of pacts defining the manner in which these arteries may be used and often creating agencies with regulatory powers. Rivers passing through two or more states and rivers acting as boundaries have presented a particular need for international control. Rules of navigation should be uniform in order that vessels will not be handicapped by being obliged to consult several codes in different parts of the same river. Improvements along the river must be subject to the approval of an authority empowered to see to it that the interests of no state are unduly infringed. It may seem desirable to have common action with respect to tolls to be charged for improvement purposes.

Waterways of international concern have been dealt with by conventions among the interested parties, many of which have set up special administrative machinery or further defined the powers of existing organs.¹ While the majority of these agreements have had reference in each case to one river only, there have been a few of more general application. Article 108 of the General Treaty drafted at Vienna in 1815 provided that the powers "whose states are separated or crossed by the same navigable river engage to regulate, by common consent, all that regards its navigation."² The most recent international action of general application was taken by the Barcelona Conference of 1921, where a convention and statute were formed relative to navigable waterways of international concern.³ The powers of

¹ See CHAMBERLAIN, J. P., *The Régime of International Rivers*, New York, 1923; OGILVIE, P. M., *International Waterways*, New York, 1920; and KAECKENBEECK, GEORGES, *International Rivers*, London, 1920, *Peace Handbook*, No. 149.

² OAKES, SIR A. and R. B. MOWAT, *op. cit.*, p. 89. The treaty further provided, in Art. 109-118, a group of principles to be applied to rivers of such nature.

³ *British and Foreign State Papers*, Vol. 116, p. 537.

all existing river commissions containing members of non-riparian states were extended by the Barcelona Convention so as to include: (1) the right to close a waterway with the consent of riparian states or of states represented on the commission, (2) the issuance of navigation rules, (3) the approval of improvement works, (4) the recommendation to riparian states of desirable improvements, (5) the approval of dues unless the act of navigation already in force has provisions regarding the subject, and (6) the right to be furnished information by riparian states of projects for improvements.¹ It is apparent that the performance of these functions entails the exercise of wide powers of control. The agencies in whose hands they are placed are obliged to submit annual reports to the League of Nations similar to those which are exacted from mandatory states.

The machinery established for the Danube River is among the most familiar that has been devised for waterways. It was by the Treaty of Paris in 1856 that two commissions of an administrative character were first set up for the river. The treaties of peace in 1919-1920 and a special convention and statute of 1921 have modified the original arrangement in many particulars.² The European Commission of the Danube today is composed of one representative each from France, Great Britain, Italy, and Roumania, but it is possible for this group by unanimous action to admit members from other states who are able to show "sufficient maritime, commercial, and European interests at the mouth of the Danube."³ The duties of this body are "to designate and to cause to be executed the works

¹ Some of these functions had already been delegated to river commissions in specific cases by earlier agreements.

² See the Treaty of Versailles, Part XII, Sec. II, Arts. 346-353; and *The American Journal of International Law*, Supplement 17, p. 14.

³ A commission controlled by non-riparian states was created because it was not possible to establish a riparian commission which might be expected to operate satisfactorily

necessary below Isatcha, to clear the mouths of the Danube, as well as the neighboring parts of the sea, from the sands and other impediments which obstruct them, in order to put that part of the river and the said parts of the sea in the best possible state of navigation."¹ The International Commission for the Danube is confined in its jurisdiction to the distance between Ulm and Braila and to the so-called "internationalized river system."² It is composed, in accordance with the Treaty of Versailles, of "two representatives of the German riparian states, one representative of each of the other riparian states and one representative of each of the non-riparian states which are, or which may be in future, represented on the European Commission of the Danube."³ The powers of the organ are wide, as the following enumeration indicates:

- 1 To keep the river free from actions of states which restrict the navigation of the river;
2. To draw up programs for works of improvement upon the basis of proposals and plans submitted by riparian states,
3. To modify national programs for improvements;
4. To see that the execution of improvements by national states conforms to programs agreed upon;
- 5 To carry out programs for improvement which riparian states are unable to do;
6. To adjust the bases upon which improvements are paid by riparian states;
7. To authorize riparian states to levy dues for the payment of improvements;

¹ Treaty of Paris, 1856, Art. 16, from Sir A. OAKES, and R. B. MOWAT, *op cit.*, p. 18. The convention of 1921, in Art. 5, provided that the powers of the European Commission shall be the same as they were before the World War.

² The "internationalized river system" is defined by Art. 2 of the Convention of 1921 as including (1) The Morava and Thaya where, in their courses, they form the frontier between Austria and Czechoslovakia, (2) The Drave from Barcs, (3) The Tisza from the mouth of the Szamos, (4) The Maros from Arad, (5) lateral canals or waterways.

³ *British and Foreign State Papers*, Vol. 112, p. 178. The Convention of 1921 relative to the Danube continues the commission with the same composition.

8. To levy dues to cover expenditures necessitated when improvements are undertaken by the commission itself.

The work of the European Commission, as it existed under earlier agreements, was regarded before the World War as distinctly satisfactory. The mouths of the river were kept open much better than they had been before 1856 when Turkey maintained jurisdiction there. The European Commission operated so effectively, in fact, during the first decades of its existence that the Treaty of Berlin in 1878 extended its authority. The International or Riparian Commission, however, aroused the hostility of England and France and after a few years broke down.

Since the World War, both of the Danube commissions have been engaged in the task of maintaining and improving the transportation facilities of the river. In 1925 the International Commission was credited with the following successful undertakings: (a) the adoption of a system of principles to govern the various states in submitting projects for approval in lieu of the adoption of a general plan for improvement works as required by the statute; (b) the provision of a uniform system of kilometrage for the entire river; (c) the establishment of an Information Section to furnish navigators with data; (d) the approval of such programs as the states had submitted for maintenance work; (e) the formulation of a uniform set of shipping and police regulations; (f) the administration of the service at the Iron Gates and the imposition of dues on ship tonnage in respect thereto; (g) the passage of principles governing a uniform system for the establishment of aids in navigation.¹ While this list is not intended to be exhaustive, it is indicative of the kinds of activities with which the commission has concerned itself. The work of the

¹ HINES, W. D., *Report on the Danube Navigation*, submitted to the Advisory and Technical Commission on Communication and Transit, 1925, pp. 52-53.

International Commission has been greatly handicapped by the internal conditions and problems of the participating countries. Mr. W. D. Hines, in his report on the navigation of the Danube commented as follows upon this obstacle with which the organization has contended:

Little by little it is believed that in these respects conditions have been immensely improved and that favorable progress is being made. But, on account of the extremely difficult situation in which each of the states found itself, the questions arising in the administration of the Danube Statute have called for a very large amount of debate and this has made it almost impossible, in the limited period of the Commission's sessions, to reach definite conclusions on many matters presented to it and calling for its decisions, and upon many other matters calling for the exercise of initiative by it.¹

Apart from the internal condition of member-states, the International Commission has been hindered in its program by the difficulty of doing its work in the two regular sessions of approximately two weeks each which are held annually, and by the requirement that decisions can be made only by a two-thirds vote. These obstacles reflect upon the constitution and methods of the organ and could not easily be removed. It has been suggested that the meetings of the body would be more profitable if a limitation were placed upon debate and if information relating to the agenda were collected in advance of the sessions.¹ Moreover, the technical nature of the questions which are dealt with would seem to justify a relinquishment of the two-thirds rule in voting.

The chief criticism made of the European Commission by the Hines report of 1925 was that it had been extravagant in its expenditures.¹ It was suggested that economies might be effected if the seat of the commission were located at some city other than Galatz.

The Rhine River, prior to 1804, was under the separate controls of the littoral states, with the result that naviga-

¹ *Idem.*

tion on it was handicapped by unreasonable charges and the lack of uniform navigation rules. On August 15, 1804, a treaty was signed between France and the Holy Roman Empire for the purpose of providing a common regulation of the navigation of the river.¹ The treaty provided a schedule of charges for vessels using the river and a number of rules relating to navigation. A Director-General, appointed jointly by the contracting parties, was authorized to supervise the operation of the system of tolls established and, in general, to direct the execution of the treaty. He was assisted by four inspectors, two appointed by France and two by the German Arch-Chancellor, whose duties were to assist the Director-General by seeing to it that the rules with respect to tolls were obeyed, by verifying records of officials, and by reporting violations of rules relating to navigation and to tolls. Twelve bureaus for the collection of navigation dues were established along the Rhine, six on each bank. Individual collectors were named by the two governments, acting separately. A commission was provided for in Article 123 of the treaty, in which France would be represented by the prefect of Mont-Tonnerre, the Empire by a commissioner selected by the Arch-Chancellor, and a third member to be chosen by the two other. The agency was authorized to render judgments on appeal from toll officers and river police.

In an Annex attached to the Final Act of Vienna of 1815 the Rhine régime was considerably altered.² A commission composed of one appointee from each riparian state was constituted to meet at least once every year. It was expected to be in charge of the execution of the convention, with the power to appoint

¹ DE CLERCQ, *Recueil des traités de la France*, Vol. 2, p. 91.

² *Ibid.*, Vol. II, p. 463. The Annex to the treaty was signed by representatives of France, England, Bavaria, Hesse Darmstadt, Baden, Nassau, Holland, and Austria.

inspectors who would be in direct contact with the conditions of navigation. One of the main duties of the commission was to hear appeals from the Rhine courts, which were national tribunals along the Rhine authorized to adjudicate cases relating to the navigation of the river.¹

On March 31, 1831, a new convention was signed relating to the navigation of the Rhine.² It was much more elaborate and detailed than the treaties which had preceded it, providing a veritable code of navigation. The commission of riparian states was kept and its duties were freshly defined as including the general supervision over the execution of the regulations, the submission of proposals for new regulations to the participating states, the encouragement of projects for the improvement of navigation, and the hearing of appeals from the Rhine courts and the river inspectors.³ The office of Inspector-General, together with the four assistants, was kept by the convention.

The present system of international administration for the Rhine River is described by the Treaty of Mannheim of October 17, 1868, supplemented by the Treaty of Versailles of June 28, 1919.⁴ The former agreement had the effect, among other things, of opening the river to non-riparian states for the first time.⁵ It also abolished the river tolls and the office of Chief Inspector.

¹ A court was attached to each office where duties were collected. The judges were nationally appointed.

² *Ibid*, Vol IV, p. 24. The signatories were France, Baden, Bavaria, Hesse, Nassau, Holland, and Prussia

³ See Art 93 of the convention.

⁴ For the Treaty of Mannheim see de CLERCQ, *Recueil des traités de la France*, Vol. 10, p. 177; the Treaty of Versailles is found in *British and Foreign State Papers*, Vol 112, p. 7.

⁵ The agreements of 1815 and 1831 had allowed rights of navigation only to vessels under captains provided with a license, which were to be given exclusively to subjects of riparian states. On this subject see BOREL, E, "Freedom of Navigation on the Rhine" in *The British Year-book of International Law*, pp 75-89. Art. 356 of the Treaty of Versailles provides specifically that the river shall be open to the "vessels of all nations."

Local inspectors, nationally appointed, were provided, who were obliged to submit reports to the commission. The duties of the commission, as described by the Treaty of Mannheim are: (1) to hear disputes between states relating to the execution of rules applying to the Rhine, (2) to consider projects of the governments concerning the navigation of the river or suggesting modifications in the convention, and (3) to give decisions on appeal on cases from the Rhine courts. The resolutions of the agency are passed by majority action but they are not obligatory until they have been accepted by the governments.¹ The Treaty of Versailles added to the powers of the commission in several particulars. Under Article 356, the organ is authorized to decide on the measures to be taken to ensure that vessels not registered in riparian states "satisfy the conditions of the general regulations applying to navigation on the Rhine." By Article 258, the commission may approve schemes proposed by France for the diversion of water from the river to feed canals or for the production of power.² Article 361 allows the agency either to approve plans for German cooperation in a deep-draught Rhine-Meuse navigable waterway or to act in place of Germany, subject to the payment of costs by Germany.

The composition of the Central Commission was altered by the Treaty of Versailles. Instead of containing one delegate from each riparian state, as stipulated in the Treaty of Mannheim, it is now composed of the following representatives: four from France, four from the German riparian states, and two each from the Netherlands, Switzerland, Great Britain, Italy, and Belgium.³ Each delegation has the right to record a number of votes equal to the number of representatives

¹ This was also true of the commission under the earlier treaties which have been described.

² The commission may authorize similar projects at the request of Switzerland for that part of the river which forms her frontier.

³ Treaty of Versailles, Art. 355.

allotted to it. The president of the organization is selected by France.

Commissions of an administrative character have been created to deal with a number of other rivers of international concern.¹ In some instances the commissions comprise only representatives of riparian states. The majority of commissions, however, contain the delegates of non-riparian states, but it is generally arranged that the riparian countries shall dominate in the group. The Elbe River Commission is made up of four German delegates, two from Czechoslovakia, and one each from Great Britain, France, Italy, and Belgium.² Provision has been made in the Chinese river commissions for foreign representation.³

By and large, it may be said that the powers of administrative agencies for international rivers are not so far-reaching as those which have been described for the Danube commissions. The functions of supervising improvements, approving and enforcing rules for river police, and hearing complaints are those which are most commonly allowed, with, of course, numerous variations as to detail.

In practice, river commissions with such powers as have been mentioned above, have operated constructively. The Rhine Commission, whose duration has been long enough to make it possible to judge its results, has been particularly efficient.⁴ The Rhine Commission has given

¹ In regard to commissions for important rivers, see: Niemen River, *British and Foreign State Papers*, Vol. 112, p. 177, Elbe and Oder Rivers, *Ibid.*, Vol. 112, pp. 176, 177; Congo River, MARTENS, G. F., *Nouveau recueil générale* (2d series), Vol. X, p. 414; Huangpu River, *Ibid.*, Vol. 32, p. 94.

² *Ibid.*, Arts, 340-345.

³ MARTENS, G. F., *op cit.*, Vol. 32, p. 94.

⁴ A report made by Mr. W. D. Hines to the Communication and Transit Organization of the League of Nations in 1925 contained the following statement.

"The problems on the Rhine are relatively few, other than those which merely reflect economic conditions, and are so well defined and

so good an account of itself that it has been maintained steadily since 1804 with necessary modifications as to composition and duties. The Congo River Commission proved to be the most unwisely constructed of any that have been attempted.¹ The functions given to it were numerous and important, but its borrowing power was so restricted that it could not be financed, and consequently it never came into existence.² The regulation and improvement of the navigation facilities of the river have been in charge of the Congo Free State.

Other waterways than rivers have been placed under the direction of international organizations. By the convention of 1888, after the rejection of the French proposal to create a régime similar to that in effect for the Danube, a Suez Canal Commission was set up as a make-shift to reconcile the views of interested nations. It was the English position, in opposition to the attitude of France, that the canal should not be subjected to international control. The commission that was created is described by the following provision of the convention:

The Agents in Egypt of the Signatory Powers of the present Treaty shall be charged to watch over its execution. In case of any event threatening the security or the free passage of the Canal, they shall meet on the summons of three of their number under the presidency of their Doyen, in order to proceed to the necessary verifications. They shall inform the Khedivial Government of the danger which they may have perceived, in order that that Government may take proper steps to insure the protection and the free use of the canal. Under any circumstances, they shall meet once a year to take note of the due execution of the Treaty.³

It is obvious that the commission is quite impotent. The functions accorded to it do not involve the exercise

understood that no further topics appear to call for comment in this report." See HINES, W. D., *Report on the Rhine Navigation*, submitted to the Advisory and Technical Commission for Communication and Transit, 1925, p. 12.

¹ MARTENS, G. F., *op. cit.*, Vol. 10, p. 414.

² SAYRE, F. B., *Experiments in International Administration*, pp. 84-87.

³ WHITTUCK, E. A., *International Canals*, pp. 29, 98, London, 1920.

of any power of direct control whatever; it is mildly supervisory in character.

The Straits Commission, established by the Lausanne Convention of 1923, has to do with a water route which is of vital importance to a large number of states. Both for commercial activities and for purposes of national defense the Bosphorus, the Sea of Marmora, and the Dardanelles constitute a channel admirably fitted to be the cause of international rivalry. For centuries it has been the subject of diplomatic activities and on occasions an objective in time of war.

The Straits Commission is "composed of a representative of Turkey, France, Great Britain, Italy, Japan, Bulgaria, Roumania, Greece, Russia, and the Serb-Croat-Slovene state, in so far as these powers are signatories of the present convention, each of these powers being entitled to representation as from its ratification of said convention."¹ The United States and any of the independent littoral states of the Black Sea may acquire the right of membership in the organization by acceding to the convention. Its duties are somewhat different from those generally exercised by administrative agencies for rivers. It is empowered to see that the provisions of the convention relating to the navigation of the Straits are applied. In order to accomplish this task the commission "may prescribe such regulations as may be necessary." The international control over the Straits is considerable, even though the powers of the commission are not extensive. Many details of that control are prescribed in the convention itself without the delegation of a great deal of authority to the administrative agency created.

The Convention for the Regulation of Aerial Navigation, signed in 1919, organized the first commission to be created, dealing with communication by airplane.² The

¹ *British and Foreign State Papers*, Vol. 117, p. 599.

² *Treaties, Conventions, etc.*, Vol. III, p. 3778. The treaty became effective in 1922

composition of the body, as described by Article 34, is as follows:

There shall be instituted, under the name of the International Commission for Air Navigation, a permanent Commission placed under the direction of the League of Nations and composed of:

Two representatives of each of the following states. the United States of America, France, Italy, and Japan;

One representative of Great Britain and one each of the British Dominions and India;

One representative of each of the other contracting states.¹

The Commission for Air Navigation performs a number of duties. Most important among those involving powers of control is the determination of standard minimum requirements which the states must follow in the issuance of certificates of air-worthiness and licenses. This qualifies the commission as an administrative body of the supervisory type. The powers of the agency include the amendment by three-fourths vote of the annexes to the convention in which are incorporated detailed rules relating to such matters as signals and log books, and the rendering of opinions on questions submitted to it. The commission is also charged with the collection and distribution of information concerning international air navigation, wireless telegraphy, meteorology, and medical science, and with the further duty of ensuring the publication of maps for air navigation.

The ports of Memel and Danzig have been placed under international control on account of their importance to commerce. The existing régime at Danzig is described in other chapters because of the fact that the administrative system in charge of the port involves extensive use of national officers representing Poland and Danzig, who act as individual agents, as well as a commission, known as the Danzig Port and Waterways Board.²

¹ *Idem*, Art. 34. The voting power of the British Empire is the same as that of the United States, France, Italy, and Japan, in spite of the inequality of representation.

² See Chaps. III and IV.

Memel, a city whose population is mainly German, became a port of vital concern to both Lithuania and Poland after 1919, when the peace settlement brought those two new states into being. A long controversy over the control of the port was terminated by an agreement between Lithuania on the one part and the Principal Allied and Associated Powers on the other, signed early in 1924, which fixed the present status of the city and its commercial facilities.¹ The agreement gives Memel legislative, judicial, administrative, and financial autonomy under the sovereignty of Lithuania. The port is declared to be a port of international concern, to which the recommendations adopted by the Barcelona Conference shall apply. The "administration and working" of the port is under a Harbor Board which is an agency under the direct control of Memel. In order to ensure the execution of the agreement with respect to the protection of the economic interests of Lithuania, Poland, and other states utilizing the port, an Economic Supervisory Committee was established composed of one appointee of Memel, one of Poland, and one of Lithuania. The committee may address recommendations and observations to the Lithuanian Government or to Memel, and, if they are disregarded, the committee may refer the matter to the Council of the League of Nations. While the major part of the control is exercised by the Memel Harbor Board, the powers of the Economic Supervisory Committee admit a measure of international control over the port.

Commissions with the Power to Govern Territories.

Attention has already been directed to the wide powers of government that have been temporarily placed within the control of plebiscite commissions, pending the determination of a permanent régime. It has also been indicated, earlier in the chapter, that other agencies

¹ *Official Journal*, January, 1924, p. 133.

have been given certain powers that are ordinarily exercised through national governments, such as the levy of dues, the issuance of regulations, the approval of improvement projects, the improvement of facilities for communication, the hearing of complaints, and the application to specific situations of enumerated regulations.

The Inter-Allied Rhineland High Commission, established in 1919 for the territory under military occupation, did not have powers of general government, but its functions were sufficiently extensive to enable it to interfere with the local régime when necessary.¹ It was within the authority of the commission to issue ordinances having the force of law "so far as may be necessary for securing the maintenance, safety, and requirements of the Allied and Associated forces."² In order to adapt the administration of the local areas of government to the needs and circumstances of military occupation, the commission could make whatever alterations were deemed to be necessary.³ The agency had no judicial functions except to try persons who committed offences against the armed forces of the occupying states or their property.⁴ While no power of taxation was given to the commission, it had "the right to requisition in kind and to demand services in the manner laid down in the Hague Convention of 1907."⁵

The London Ambassadorial Conference, in 1913, created an International Commission of Control for Albania.⁶ This organ, composed of one representative

¹ A special agreement authorizing the creation of such a body was signed in 1919 at Versailles. See *British and Foreign State Papers*, Vol. 112, p. 220. The organ was disbanded in 1930 and the Rhineland placed under German authority.

² *Idem*, Art. 3.

³ *Ibid*, p. 221, Art. 5.

⁴ *Ibid*., p. 220, Art. 3.

⁵ *Ibid*, p. 221, Art. 6.

⁶ SAYRE, F. B., *op cit.*, p. 56, and Woods, H. C., "The Situation in Albania," in the *Fortnightly Review*, p. 460, 1914. The commission was created by a resolution of the conference.

from each of the six great powers and of an Albanian delegate, was to have charge of the civil and financial administration of the country for a period of ten years, with the understanding that its mandate might be renewed. At one of its sessions the commission adopted a rule that purely administrative questions might be settled by vote of the agency itself but that, if a member should maintain that any matter under discussion was possessed of political importance, it could not be settled without reference to his government. Much of the time of the commission was used for the investigation of complaints addressed to them. The difficulties which the organ encountered were enormous. They were unable to agree upon the appointment of a native governor of Scutari and were obliged to endow European authorities within the district with the function of enforcing the commission's decisions. The work of the commission was prematurely terminated by the World War.

An interesting plan to place Spitzbergen under a system of condominium was under consideration when the World War began in 1914.¹ The project would have placed the government of the islands under the control of a commission of three members representing Norway, Sweden, and Russia. In 1920 Spitzbergen was given to Norway with the understanding that the interests of other states would be protected.²

The Saar Basin Governing Commission has the most inclusive powers of government of any international commission now in existence. Its relation with the League of Nations gives it a different status from the other commissions which have been discussed. In view of the fact that the agency was created by the Treaty of Versailles, it will be taken up in this chapter as an international commission; its connection with the League will be treated in Chapter IV.

¹ *Revue général de droit international public*, Vol. 20, p. 277.

² *British and Foreign State Papers*, Vol. 113, p. 789.

The territory of the Saar Basin as defined by the Treaty of Versailles covers seven hundred square miles with a population of about seven hundred and forty thousand people. At the end of the World War France claimed the land, mainly as compensation for the destruction of the coal mines in the north of France, but also on the basis of its history.¹ It was decided at the Paris Peace Conference in 1919 that for a period of fifteen years "the government of the territory of the Saar Basin shall be entrusted to a commission representing the League of Nations."² At the termination of the period, a plebiscite must be held to determine the permanent status of the territory.

The composition and methods of the commission are regulated by the following provisions of the Treaty of Versailles:³

The Governing Commission provided for by paragraph 16 shall consist of five members chosen by the Council of the League of Nations, and will include one citizen of France, one native inhabitant of the Saar Basin, not a citizen of France, and three members belonging to three countries other than France or Germany.

The members of the governing Commission will be entitled to a salary which will be fixed by the Council of the League of Nations, and charged on the local revenues.

Article 18.—The Chairman of the Governing Commission shall be appointed for one year from among the members of the Commission by the Council of the League of Nations and may be re-appointed.

The Chairman will act as the Executive of the Commission.

Article 20.—Germany will place at the disposal of the Governing Commission all official documents and archives under the control of Germany, of any German State, or of any local authority, which relate to the territory of the Saar Basin or to the rights of the inhabitants thereof.

In practice the personnel of the commission has been under French control to a greater extent than might be

¹ OSBORNE, S, *The Saar Question*, p. 39, London, 1923

² Treaty of Versailles, Part III, Sec IV, Annex, Par 16.

³ *Ibid.*, Part III, Sec IV, Annex, Par. 17, 18

expected from a casual survey of the above provisions. The president is a Frenchman and both under the terms of the Treaty of Versailles and in actual practice that officer acts as the executive and the other members of the organ play the role of cabinet. The reports of the commission to the League of Nations reveal the powerful nature of the presidential office. It is under the president's power to maintain law and order that French troops have been kept in the Saar territory. The other members of the commission included, at the time when it was first constituted, a Belgian, a Dane who has resided for years in France, a resident of the Saar, and a Canadian.¹

The chief powers of the Saar Basin Commission are defined by the following stipulations of the Treaty of Versailles:²

Paragraph 21.—It will be the duty of the Governing Commission to ensure, by such means and under such conditions as it may deem suitable, the protection abroad of the interests of the inhabitants of the territory of the Saar Basin.

Paragraph 23.—The laws and regulations in force on November 11, 1918, in the territory of the Saar Basin (except those enacted in consequence of the state of war) shall continue to apply. If, for general reasons or to bring these laws and regulations into accord with the provisions of the present Treaty, it is necessary to introduce modifications, these shall be decided upon, and put into effect by the Governing Commission after consultation with the elected representatives of the inhabitants in such manner as the Commission may determine.

Paragraph 25.—The civil and criminal courts existing in the territory of the Saar Basin shall continue. A civil and criminal court will be established by the Governing Commission to hear appeals from the decisions of the said courts and to decide matters for which these courts are not competent. Justice will be rendered in the name of the Governing Commission.

¹ RUSSELL, F. M., *The International Government of the Saar*, p. 142. From April 1, 1928 to April 1, 1929 the commission was composed of the following nationalities: Finnish, Saar, French, Czechoslovakian, and British. See *The League from Year to Year*, p. 212, Geneva, 1929.

² Treaty of Versailles, Part III, Sec. IV, Annex.

Paragraph 26.—The Governing Commission will alone have the power of levying taxes and dues in the territory of the Saar Basin. These taxes and dues will be applied exclusively to the needs of the territory.

Paragraph 28.—Under the control of the Governing Commission the inhabitants will retain their local assemblies, their religious liberties, their schools and their language.

Paragraph 30.—It will be the duty of the Governing Commission to provide in all cases for the protection of persons and property in the Saar Basin.

Paragraph 33.—The Governing Commission shall have power to decide all questions arising from the interpretation of the preceding provisions.

The foregoing description of the powers, while not complete, indicates their extensive nature and suggests that the commission is in a position where it is bound to win either the approval or the condemnation of the inhabitants for the manner in which it exercises its discretion. From the first the provisions of the Treaty of Versailles dealing with the Saar Basin, as well as the operations of the commission, have received wide condemnation, both within the Saar Basin and among outsiders.¹

The Inter-Allied Commissions of Control.

By each of the treaties of peace of 1919–1920 there were established the so-called Inter-Allied Commissions of Control for the purpose of supervising and assisting the defeated powers in the execution of all the military, naval, and air clauses of the several treaties.² The nature of these agencies may be seen from a more complete description of those created under the Treaty of Versailles. The Military Inter-Allied Commission

¹ For opinions on this subject see OSBORNE, S., *op. cit.*; RUSSELL, F. M., *The International Government of the Saar*; NITTI, F. S., *Peaceless Europe*, pp. 19–38, London, 1922; KELLOR, F. and A. HATVANY, *Security Against War*, Vol. I, p. 119, New York, 1924.

² *British and Foreign State Papers*, Vol. 112, pp. 97, 377; and Vol. 113, pp. 533, 698, 806, for Treaties of Versailles, St. Germain, Trianon, Sevres, and Neuilly, respectively.

was empowered to receive notifications from the German Government with regard to the location of stocks of munitions, ports, and factories for the production of war material. It also received deliveries of war materials and supervised the destruction of designated articles of war. The Naval Inter-Allied Commission of Control was given similar duties with respect to the naval disarmament of Germany. The duties of the Aeronautical Inter-Allied Commission of Control were "to make an inventory of the aeronautical material existing in German territory, to inspect aeroplane, balloon and motor manufactories, and factories producing arms, munitions and explosives, capable of being used by aircraft, to visit aerodromes, sheds, landing grounds, parks and depots, to authorize, where necessary, a removal of material and to take delivery of such material." In 1927-1928 the Inter-Allied Commissions of Control were dissolved and it was arranged that the Council of the League of Nations, through the instrumentality of special investigating bodies to be selected from a panel of experts, should succeed to the duties of the old commissions.¹

¹ BUELL, R. L., *Europe A History of Ten Years*, pp 392-393, New York.

CHAPTER III

INTERNATIONAL CONTROL THROUGH THE USE OF NATIONAL AGENCIES

A certain amount of stress is placed upon the use of national agents by international commissions, as may be seen from the fact that such bodies are often composed of the appointees of the participating states. Nevertheless, the national status of the administrative personnel does not stand out as conspicuously in the case of commissions as in certain other systems of international administration. This may be due to any or all of the following reasons: (1) commissions may employ agents who have no official connection with participating states, (2) they may be composed on a non-representative basis, and (3) members of commissions cannot act individually and on their own authority but only with the acquiescence of the entire group or of a designated majority of it. A discussion of all of the existing administrative arrangements which place the maximum emphasis upon the utilization of national agents will be impossible. Only typical ones will be analyzed.

National officers are used most extensively for international administrative purposes in several types of condominium schemes. Where joint control over a territory is exercised exclusively through national appointees who act as individual officers without being grouped into commissions, it would seem that the maximum reliance is placed upon national agents. There are also instances in which national appointees act separately for some purposes and collectively for others. Finally, there are more restricted applications of the principle of condominium, in such a manner that while

there is local autonomy for most purposes there is joint control with respect to certain affairs. Where joint control is established for specified matters, such as the collection of customs, it is generally exercised through national appointees who do not constitute commissions.

Tangier.

One of the most interesting instances of international administration is furnished by the convention defining the present status of Tangier, in Northwest Africa. The problem of Tangier first came into prominence shortly after the Madrid Conference of 1880. As early as 1887 the suggestion was made by an American citizen that the city be placed under the control of an international commission, but it was not until the conclusion of the Franco-Spanish treaty of October 3, 1904, that its special status was officially recognized.¹ On September 1, 1905, it was agreed by Spain and France that the police force of the city should be jointly controlled by officers of France and Spain for a period of fifteen years.

The Treaty of Algeciras, signed on April 7, 1906, did not alter the status of Tangier except in minor ways.² By Article 61, the International Sanitary Council at Tangier was authorized to decide how the city's quota of revenue from the taxation of its buildings should be used. The treaty provided, however, for international control over several interests relating to Morocco as a whole. A number of Spanish and French officers, appointed with the approval of the Sultan, were included in the Moroccan police. The State Bank of Morocco, created by the agreement, was placed under the supervision of

¹ STUART, G. H., *op cit*, pp. 81-82. For the treaty of October 3, 1904, see *British and Foreign State Papers*, Vol. 102, p. 432. Art 9 of that treaty provided that "Tangier will keep the special character which the presence of the diplomatic corps and its municipal and sanitary institutions have given it."

² An English translation of the text is given in *The American Journal of International Law*, Vol. I, Supplement, p. 47.

four censors selected by the central banking institutions of Germany, England, Spain, and France, respectively. They were to see to it that the bank was efficiently operated and to "insure the strict observance of the clauses of the concession and of the statutes." The diplomatic body at Tangier was given several administrative duties. For instance, by Article 96 it was authorized to select three of the members of a committee on customs-valuations whose duty it was to appraise every year the "value of the chief articles of merchandise dutiable in Moorish customs."¹

In 1912 negotiations were begun for the purpose of agreeing upon a system of international control over the City of Tangier. Early in the following year a draft plan was concluded.² The revision of this project was completed and put in its final form on November 5, 1914.³ It was never placed in operation because Spain, as a neutral in the World War, refused to participate in it on the ground that to do so might be construed as unneutral by Germany. The plan contemplated the establishment of international control through a municipal assembly composed of representatives from the various national groups, a civil service under the direction of the powers, and a committee of control consisting of the representatives of eleven European powers and the caliph.⁴ On account of the failure of this scheme, the

¹ The other members of the committee were to be selected as follows: three by the Sultan of Morocco, one by the State Bank, one by the delegation representing the five per cent loan of 1904 to Morocco.

² For a discussion of this plan see STUART, G. H. *op. cit.*, p. 88, and MYERS, D. P., "Tangier, An International City," in *The National Municipal Review*, Vol. 4, p. 60.

³ STUART, G. H., *op. cit.*, p. 94.

⁴ The municipal assembly was to be composed of eleven persons selected by the diplomatic body at Tangier, seventeen elected by European national groups in Tangier, three by Mohammedans, three by the Jews, and a representative of the caliphate. The municipal services were to contain Europeans on the basis of percentages agreed upon by the powers. The committee of control was the most powerful body, with the right of approving the acts of the assembly.

City of Tangier was governed, in the main, by the *Conseil Sanitaire*, made up of the diplomatic corps, for a period of approximately ten years. After the World War France made an effort to gain complete control of the city, but was successfully opposed by England and Spain. It was not until December 18, 1923, that Great Britain, France, and Spain were able to negotiate a convention providing a definite governmental structure for the Tangier Zone.¹

The convention, signed in 1923, did not go into operation until June 1, 1925. From the beginning it was regarded in an unfavorable light by Spain on the ground that she had not been given a fair share of control over the city.² Furthermore, Italy, as a non-signatory to the pact of 1923, refused to accept it and insisted upon her rights under the Treaty of Algeciras. Spain, in order to forward her position, tried in 1926 to exchange her claim to permanent membership in the Council of the League of Nations for a new agreement respecting Tangier, under which she would either obtain a mandate over the city or be allowed to govern it as a part of her holdings in northern Morocco. At the suggestion of England negotiations were begun between France and Spain with a view to a new conference to deal with the city. Finally, as a result of this diplomatic effort a conference was held at Paris during the summer of 1928 and a new convention, revising that of 1923, was signed by the representatives of England, France, and Spain.

This convention of 1928 is the basis of the present government of the City of Tangier.³ It continues the condominium feature of the agreement of 1923. The functions of government are divided between a group of

¹ *Treaty Series* (British), No. 23 (1924). See also *The American Journal of International Law*, Vol. 23, Supplement, p. 235.

² FENWICK, C. G., "The International Status of Tangier," in *The American Journal of International Law*, Vol. 23, pp. 140-143.

³ For the Final Protocol of the Conference for the Amendment of the Tangier Statute, see *Treaty Series* (British), No. 25, 1928.

European nations and the Sultan of Morocco.¹ The latter is able to delegate a Mendoub to represent him within the city and to ensure the observance by the natives of the "general clauses of the statute of the Zone, and especially to ensure by the administrative and judicial means at his disposal the exact payment of the duties and taxes due from the native population." Legislative functions for the Zone are delegated to a body of twenty-seven persons in accordance with Article 34, which reads as follows:

In consideration of the number of nationals, the volume of commerce, the property interests and importance of local trade at Tangier of the several Powers signatory to the Act of Algeciras, the International Legislative Assembly shall be composed of

- 4 French members,
 - 4 Spanish members,
 - 3 British members,
 - 3 Italian members,
 - 1 American member,
 - 1 Belgian member,
 - 1 Dutch member,
 - 1 Portuguese member,
- nominated by their respective consulates, and in addition
- 6 Mussulman subjects of the Sultan nominated by the Mendoub, and
 - 3 Jewish subjects nominated by the Mendoub and chosen from a list of nine names submitted by the Jewish community.

This legislative structure illustrates very well that the arrangement is one of joint control.

The administrative branch of the city government, expected to enforce the terms of the convention and the acts of the Legislative Assembly, also distributes authority in accordance with the principles of condominium. The chief Administrator during the first six years is French; the three assistant Administrators, acting as Directors of health, finances, and justice, must be

¹ French influence in the city is obviously increased by French control over the Sultan of Morocco.

Spanish, British, and Italian, respectively. After the first six years the Assembly will select the persons to hold these four posts from among the states signatory to the Act of Algeciras and in such manner that no two of the four are nationals of the same country. Subordinate administrative positions are filled by the action of special committees made up in each case of the Administrator, the four Vice-Presidents of the Assembly and the head of the service concerned.

There are several special administrative services operating under the convention. The native police force, maintained at the expense of France, Spain, and the City of Tangier itself, is under the command of a Spanish officer, with a French appointee acting as second-in-command. Detailed regulations regarding the *gendarmerie* are provided in a special annex to the convention.¹ There is an Inspector-General of Security, assisted by a bureau, "entrusted with the task of watching all matters affecting the security of Tangier in relation to that of the neighboring zones and of foreign countries." With the support of the public prosecutor, he may institute criminal proceedings. A Port Commission, composed of one representative each of the Shereefian Government, the Legislative Assembly, and the Committee of Control, deals with the concessions and contracts relating to Tangier.

Occupying an important position among the organs carrying on the government of the city is the Committee of Control, which under Article 30 consists "of the consuls *de carrière* of the Powers signatories of the Act of Algeciras or of their substitutes *de carrière*." The Presidency of the Committee rotates among the consuls of the states in alphabetical order, with a term of one year attaching to the office. The Committee of Control has the duty of seeing to it that "the régime of economic

¹ This annex contains regulations with regard to the organization, recruitment, and discipline of the *gendarmerie*.

equality and the provisions of the statute of Tangier" are observed. By a majority vote it may decide that laws passed by the Assembly are contrary to the convention and, upon that ground, veto them. The President of the Committee must countersign acts of the Assembly before they may be promulgated by the Mendoub.

The idea of joint control is carried into the judicial branch of government, as well as the legislative and administrative. There is a Mixed Court containing judges of Belgian, British, Spanish, French, and Italian nationality. The public interests in that tribunal are represented by two magistrates, one French and the other Spanish.

From a purely theoretical point of view, the present government of the City of Tangier is open to criticism. The dispersion of authority and responsibility, which is common to condominium arrangements, is aggravated here by the unusually large number of states participating in the control of the Zone.

The existing system of international control in Tangier has not been in operation long enough to permit a satisfactory evaluation of its practical merits. There are several obstacles and problems, however, which may already be observed. The régime of 1923 was not in favor among the inhabitants of the area.¹ Specifically, the people were disgruntled on account of the decision of the Tangier Port Company to increase the harbor tariffs and because of the alleged inadequacy of the police force. Since 1928 the inhabitants have felt that provision should be made for more effective participation by them in the government of the city.² The financial obligations which have recently been assumed by the Zone with respect to railways and other matters have met with popular opposition. Finally, the customs

¹ STUART, G. H., *op. cit.*, pp. 131-133.

² *Ibid.*, pp. 210-221.

administration within the territory has been unfavorably criticized.

Other Condominium Arrangements.

It is the essence of condominium that there shall be a division of control over a territory among two or more states, acting through their own appointees. Whereas in the case of Tangier there are a large number of participating nations, arrangements have been adopted for other areas which have divided authority between only two states. In the case of Samoa before 1899 there were four states involved, including the native government.

There are two important instances of condominium now in operation in which control is shared by two exterior powers with practically no native autonomy. The New Hebrides was placed under such a régime in 1906 in order to terminate the rivalry of France and England to control the islands.¹ The convention of 1906 was somewhat modified by a later agreement in 1922.² These documents create a Joint Court, composed of one judge from each of the two signatory states and one appointed by the King of Spain. Legislative power is vested jointly in two High Commissioners representing France and Great Britain, respectively. The administrative branch of government, which is regulated by detailed stipulations, is also under the control of the two High Commissioners. The local police force is separated into two sections, each of which is under one of the commissioners. Whenever it is deemed desirable, these police forces act together under the common direction of the two European officers. There is also a Joint Naval Commission, which may cooperate in the maintenance of order among the inhabitants of the islands. By Article 4 of the convention of 1906 the following public services are undertaken in common: posts and

¹ *British and Foreign State Papers*, Vol. 99, p. 230.

² *Ibid.*, Vol. 116, p. 457.

telegraphs, public works, ports and harbors, buoys and lighthouses, public health, and finance. The High Commissioners may issue administrative and police regulations, which are binding upon the native tribes.

The practical operation of the government of the New Hebrides has not been wholly satisfactory. The French and the British have had a number of controversies and the natives have fared badly. The French have been anxious to annex the islands, but there is strong opposition within the British Empire, particularly in Australia.

Following the joint conquest of the Sudan by Great Britain and Egypt, that territory was placed under a condominium by an agreement between the British Government and the Khedive of Egypt, signed at Cairo on January 19, 1899.¹ In accordance with that document "the supreme military and civil command in the Sudan shall be vested in one office, termed the Governor-General of the Sudan." He is appointed by Khedivial decree on the recommendation of the British Government, and his powers include the making of laws and regulations as well as their execution. The civil service of the Sudan is composed of British, Egyptian, and Sudanese officers, all of whom are selected by the Governor-General.² The higher administrative officials, including the heads of departments, the provincial governors, and inspectors, have been British and the majority of them have come from the army. Police officers and magistrates of the local districts into which the provinces are divided have been Egyptians and Sudanese, with an increasing tendency to use the Sudanese. It is admitted that this condominium arrangement allows Great Britain the lion's share of control over the territory and its policies.

¹ For the terms of this agreement see *Peace Handbook*, No. 90, "The Anglo-Egyptian Sudan," App. I, London, 1920.

² *Ibid.*, p. 60.

The rivalry between the governing powers, which is so common in cases of condominium, has been much in evidence with regard to the Sudan. Egypt has been anxious to secure a reversal of British and Egyptian roles in the government of the territory in order to allay her anxiety over the control of the Nile water supply. To date, however, the joint arrangement continues, and it does not appear probable that any concessions will be made by the British in the near future.

There are other well-known cases of condominium which have been terminated. From 1879 to 1882 Egypt was controlled jointly by Great Britain and France, acting chiefly through their respective consuls-general.¹ The Samoa Islands were governed by the United States, Great Britain, and Germany, acting in collaboration with the native government between 1889 and 1899.² In accordance with the treaty of 1889 the main organ of external control was a Chief Justice, chosen by the common agreement of three foreign powers, who had jurisdiction over all questions arising out of the agreement of 1889 and also over a large number of civil suits and criminal cases. A commission of three, composed of one appointee from each of the signatory states, was authorized to adjust alien claims. Within the municipal district of Apia, the consular representatives of the three foreign states had the function of mapping out electoral districts, and the president of the city council was selected by the three powers. The Samoan condominium proved to be unsatisfactory. In 1894 President Cleveland stated with regard to Samoa that, "The present government has failed to correct, if indeed it has not aggravated, the very evils it was intended to prevent."³ An

¹ BEER, G. L., *African Questions at the Paris Peace Conference*, p. 422, New York, 1923, also DEBIDOUR, A., *Histoire diplomatique de l'Europe*, 1878-1904, pp. 56-59.

² *Treaties, Conventions, etc.*, Vol. II, p. 1,576.

³ BEER, G. L., *op. cit.*, p. 422, quoted.

investigating committee, representing the United States, Great Britain, and Germany, reported in 1899 that the tripartite control was unsound. Consequently, the arrangement was terminated.

Systems of condominium have not, as a whole, been entirely satisfactory. They divide control and responsibility, and invite intrigues among the governing states, each of which is chiefly concerned over its own interests.¹

The Free City of Danzig.

On account of the importance of the commercial facilities of the Free City of Danzig to Poland, certain aspects of its government have been placed under a system of international control. The city, containing approximately 200,000 persons, was before 1919 a part of the German Empire, and its population today is predominantly German.² The present status of the city is the result of the conflicting interests of Poland and Germany

¹ Lord Cromer made the following observation with respect to the international administration of Egypt

"Semi-civilized countries, in which the rulers are sometimes only possessed of incomplete sovereign rights, open up a wide field for development of internationalism . . . But alas! however much exclusiveness may in appearance be expelled by the cosmopolitan pitchfork, it but too often comes back again to its natural resting place. The experience of administrative internationalism has probably been tried in the No Man's Land (Egypt) of which this history treats to a greater extent than in any other country. The result cannot be said to be encouraging to those who believe in the efficacy of international action in administrative matters. What has been proved is that international institutions possess admirable negative qualities. They are formidable checks to all action, and the reason why they are so is that, when any action is proposed, objections of one sort or another generally occur to some member of the international body. Any action often involves a presumed advantage accorded to some rival nation, and it is a principle of internationalism, which is scornfully rejected in theory and but too often recognized as a guide for practical action, that it is better to do nothing, even though evil may ensue, than to allow good to be done at the expense of furthering the interests, or of exalting the reputation of an international rival"—BEER, G. L., *op cit.*, p. 423.

² The population of the entire area, including persons outside of the city proper, is 350,000.

with regard to the boundaries of the new state of Poland created at the Paris Peace Conference. While the city does not have complete independence, it possesses a large measure of autonomy. It has concluded several treaties and has acceded to others. Polish diplomats represent the city and protect its nationals abroad. Exequators for foreign consular officers residing at Danzig are issued by the Polish Government in agreement with the authorities of the Free City. A Polish diplomatic representative acts as intermediary between the Polish Government and the Government of the Free City.

While the Free City has a large measure of autonomy, certain aspects of its government are internationally controlled, either through the joint actions of Danzig and Poland or by the League of Nations. The powers of the League of Nations over the city will be discussed in a later chapter.¹ The system of international administration maintained in the area is described only in a general way by the Treaty of Versailles. The details of the structure are to be found in the constitution of the Free City, drafted under the supervision of the High Commissioner of the League of Nations, and in the special conventions which have been concluded.²

In accordance with the constitution of the city, the legislative branch is composed of two houses known as the Popular Assembly and the Senate. The former is chosen by popular elections on the basis of universal suffrage, while the latter is made up of persons selected by the Popular Assembly. Both houses are composed of residents of the Free City with no provision for the representation of Polish interests. Similarly, the judicial

¹ See Chap. IV for a discussion of the relation of the League to the City of Danzig

² For the constitution of the Free City of Danzig see the *Official Journal*, Special Supplement No. 7, July, 1922, pp. 5-20. For the special conventions see particularly that signed on Nov. 9, 1920, in *British and Foreign State Papers*, Vol. 113, p. 965.

branch of the city government admits no Polish participation. It is chiefly on the administrative side of the government of the city that cooperation between officials of Poland and those of Danzig is made necessary.

There is one administrative agency controlled jointly by the Free City and Poland, known as the Danzig Port and Waterways Board.¹ This organ includes an "equal number (which shall not exceed five) of Polish and Danzig commissioners, to be chosen by the Polish Government and the Free City respectively from representatives of the economic interests of the two countries." The president of this board is chosen by agreement between the Polish Government and the Government of the Free City, but if it is impossible for them to agree, the Council of the League may name a president of Swiss nationality. The powers of the board are, within the field assigned to it, of an extensive character. It administers the port, the waterways of the city, and the whole railway system serving the port. The agency may decide for itself which railways are to be included within the "system specially serving the port," subject to protest from the Free City and Poland, with appeal to the High Commissioner. The board is authorized to "collect all dues, taxes, and receipts arising from the administration of the port, waterways and railways referred to in Article 20, and shall defray all costs of upkeep, control, exploitation, improvement and development." These powers carry with them the right on the part of the board to own, acquire, and lease property. It is the duty of the agency to ensure to Poland the free use of the port and of means of communication related to it, so that Polish maritime commerce shall not be impeded.

The remaining administrative activities within the Free City are shared by the officials of Danzig and those of Poland, usually acting separately. The administration

¹ *British and Foreign State Papers*, Vol. 113, p. 969.

of customs is governed by the following provision of the treaty of November 9, 1920:¹

The territory of the Free City of Danzig shall for customs purposes form one administrative unit under the charge of officials of the Free City and under the general direction of the Polish Central Customs Administration; the Polish Government shall, through Polish inspectors attached to the Danzig personnel, participate in the inspection of the customs service. These inspectors, who shall be paid directly by the Polish Government, shall communicate their observations to the Polish Central Customs Administration.

Administrative officers of Poland operate within the Free City in connection with the postal, telegraph and telephone services which Poland may establish to connect with the port. Poland may also maintain in Danzig administrative agents for the purpose of registering and inspecting the sea-worthiness of Polish ships and for the engagement of crews. The majority of administrative activities, however, come within the control of officers of the Free City.

The present régime in the City of Danzig has undoubtedly been conducive to the development of the commercial possibilities of the port. For 1923 the total net registered tonnage of sea-going vessels entering and leaving Danzig was 75 per cent higher than for the year 1912.² Vessels flying the German flag and that of the Free City have been using the port most extensively.

Many of the controversial issues which are inevitable in such a scheme have been successfully settled by diplomatic negotiations between the two interested parties, Poland and Danzig. The treaty of October 24, 1921, between them contains two hundred and forty-four articles relating to such matters as naturalization, extradition, postal arrangements, regulations for ships, stock

¹ *Ibid*, p. 967.

² *The Saar Basin and the Free City of Danzig*. Information Section of the League of Nations, 1924.

exchange transactions, customs, fisheries, trade, and the food supply of the Free City. On the other hand, there have been many difficulties that could not be removed by direct action between the two parties, and have therefore been appealed to the High Commissioner.¹ Most of these appeals were taken for the sole purpose of obtaining a definite understanding of treaty provisions and did not involve an inflamed public opinion. Two of the contested issues were referred by the Council of the League of Nations to the Permanent Court of International Justice for advisory opinions.²

International Control Exercised by Groups of Diplomatic or Consular Agents.

It has already been observed that international control over the City of Tangier is exercised, in part, through a Committee of Control which is composed of the consuls *de carrière* of the powers signatory to the Act of Algeciras or of their substitutes *de carrière*. There have been other situations in which participating states have authorized their consular or diplomatic officers to administer through collective action.

On May 31, 1865, an agreement was entered into by ten of the large powers and Morocco, providing for the international administration of Cape Spartel lighthouse, located on the northwest coast of Africa, close to the City

¹ There were ten decisions made by the High Commissioner in 1921; see *ibid.*, pp. 29-30. During recent years there have not been so many; see *The League, Year to Year, 1927-1928*, pp. 212-213, and 1928-1929, p. 183, and see also *Eighth Yearbook of the League of Nations, World Peace Foundation Pamphlets*, Vol. XI, No. 2, p. 183.

² On May 16, 1925, the Court gave an opinion to the effect that the Polish Government is entitled under treaties in force to have a postal service in Danzig, open to public use and not restricted to a single office. In the second advisory opinion, given on March 3, 1928, the Court took the attitude that a decision of the High Commissioner in Danzig with respect to pecuniary claims of railway officials was not legally well founded. For these opinions see *Publications of the Permanent Court of International Justice*, Series B, Nos. 11 and 15.

of Tangier.¹ The lighthouse had been built by the Moroccan Government because of the hazards to navigation and commerce which had been encountered.² By the terms of the agreement the Sultan of Morocco placed the lighthouse under the "superior direction and administration" of the "representatives of the contracting powers." This group of officials, representing the large powers, was authorized to establish the necessary regulations for the service and superintendence of the establishment. The neutrality of the lighthouse was guaranteed.

Since the beginning of international control over the structure, the diplomatic corps at Tangier has been in charge. Rules were formulated in 1865 controlling the meetings of the body when it is acting in this capacity.³ The presidency rotates among the members annually. The Convention of 1923 dealing with Tangier included Cape Spartel in the international zone, but Article 53 of the Convention of 1865 was recognized as remaining provisionally in force.⁴

Consular and diplomatic officers in China exercise control over certain affairs by collective action. The Legation Quarter in the City of Peking is administered by the diplomatic representatives of the powers who appoint a commission authorized to levy taxes for the maintenance of roads and to compensate the special corps of policemen which is kept within the area.⁵ The

¹ For the text of the convention see *The American Journal of International Law*, Vol. 6, Supplement, p. 14; also de CLERCQ, *Recueil des traités de la France*, Vol 9, p. 291. The states signatory, besides Morocco, were Austria, Belgium, France, Great Britain, Italy, the Netherlands, Portugal, Spain, Norway and Sweden, and the United States.

² For a discussion of the circumstances surrounding the conclusion of the agreement of 1865 see STUART, G. H., *The International City of Tangier*, pp. 39-49, Stanford University, 1931.

³ *Idem*.

⁴ *British and Foreign State Papers*, Vol 117, p. 499

⁵ WILLOUGHBY, W. W., *Foreign Rights and Interests in China*, Vol. I, p. 508, Baltimore, 1927.

heads of the embassies and legations act by unanimous decisions in their control over the commission.

The International Settlement in the City of Shanghai presents an unusual situation from the point of view of international administration.¹ The American, British and other foreign subjects in the city have been allowed to establish a system of municipal government of their own, apart from that of the Chinese City and French concessions. The system was not established by treaty action but by a number of land regulations, issued by the consuls and, in some cases, approved by Chinese local officials. Very little cooperation between the various foreign governments is involved in the system. Municipal affairs are mainly under the control of the citizens of foreign countries residing in the area, who select a municipal council and other officers. Theoretically the Government of the International Settlement is subordinate to the consular officers in the city but actually the municipal council acts quite independently.² In practice, changes in the land regulations have had the consent of the diplomatic corps at Peking.³

The International Collection of National Revenue.

There are several states which have concluded agreements to allow other powers to participate in the collection of the national revenue.⁴ These agreements have taken the form either of private compacts made between governments and foreign corporations or of international

¹ *Ibid.*, p. 511; also *The Problems of the Pacific*, the Proceedings of the Second Conference of the Institute of Pacific Relations in 1927, pp. 98-105, Chicago, 1928

² This is the opinion of Mr. T. F. Millard in *The New York Times*, July 30, 1925.

³ The diplomatic corps at Peking has had a similar relation to other concessions and settlements in China involving the subjects of only one foreign state.

⁴ A very good discussion of this subject may be found in WILLIAMS, B. H., *The Economic Foreign Policy of the United States*, Chaps. 10 and 11, New York, 1929.

treaties between two or more states.¹ It is, of course, only the latter which relate to the subject of international administration.² Where a treaty is concluded calling for the joint action of two or more states in the collection of national revenues, there exists a form of international administration analogous in its main features to that existing in a condominium, except that it operates on a smaller scale.

The objective of a treaty permitting foreign participation in the collection of revenues is to afford security to foreign financial interests which have made loans to the weaker state. The United States has concluded such treaties not only for the purpose of protecting its own financial interests, but also to prevent the intervention of European countries, which have felt the need of some means of security in connection with loans made by them in this hemisphere.

Without attempting to deal with all of the instances of international administration relating to the collection of national revenue, it will be desirable to describe a few of them in order to make clear the nature of the administrative systems in operation. The first customs receivership involving the action of the United States Government was made possible by an executive agreement concluded by President Roosevelt with the Dominican Republic in 1905 for the purpose of forestalling the

¹ Where a private agreement is made, the Foreign Office is generally cognizant of it, and may be designated to assist in the selection of agents to administer it.

² The Chinese Maritime Customs Administration does not involve international administration even though there are foreigners connected with it. It originated in 1854 to provide a more systematized customs service. All of the officers and employees are servants of the Chinese Government, even though approximately one out of five of them is a foreigner. In 1898, by an exchange of notes, Great Britain was given the assurance that the Inspector-General would always be a British subject. All of the officers, however, are controlled exclusively by the Chinese Government. In regard to this subject see HORNBECK, S. K., *China Today: Political*, pp. 466-468, Boston, 1927.

intervention in that country of European creditors. It was given the status of a treaty on February 8, 1907.¹ By that agreement provision was made that the President of the United States shall appoint a General Receiver, several assistant receivers, and other employees, who shall collect all the customs duties until the bonds of the Dominican Republic are retired. The expenses of the receivership are paid from the revenue collected, but in no case may they exceed 5 per cent of the total.

The participation of the Dominican Republic in the administration of the customs service is made necessary by Article 2, which stipulates, in part, that, "The Dominican Government will provide by law for the payment of all customs duties to the General Receiver and his assistants, and will give to them all needful aid and assistance and full protection to the extent of its powers." Under a special agreement individual collectors themselves and the other subordinate officials of the service are appointed by the President of the Dominican Republic. It results, therefore, from the arrangement that there is joint action on the part of the United States and the Dominican Republic, with the former in control of the higher positions in the service and the latter in charge of the subordinate staff. In 1926 there were six Americans and one hundred and seventy-one Dominicans engaged in the collection of the customs of the island republic.² In 1924 a new treaty with the Dominican Republic replaced that of 1907, but no change was made relative to customs collections.³

The system of customs collections now in force in Haiti under the treaty of 1915 differs from that in the Dominican Republic in one respect, involving only a matter of form.⁴ The General Receiver in Haiti is

¹ *Treaties, Conventions, etc*, Vol 1, p 418.

² *Report of the Dominican Customs Recewershship*, pp. 2-3, 1926.

³ *Treaty Series*, United States, No 726.

⁴ *Treaties, Conventions, etc*, Vol III, p 2673. See also BUELL, R. L., "American Occupation of Haiti," *Foreign Policy Association Information*

appointed by the joint action of the President of the United States and the President of Haiti rather than by the former alone, as is the case in the Dominican Republic. In Nicaragua, Liberia, Salvador, and Bolivia the collection of customs is regulated by private agreements of Americans with those states.¹

Analogous to the customs receiverships which have been described are the arrangements that have been made for the international collection of internal revenues. As a rule, the acceptance of foreign assistance in the latter cases is based upon executive agreements rather than on formal treaties. They have had the same objective as that of customs receiverships to guarantee security to loans from external sources.

Two of the best illustrations of this type of international administration are the existing systems of collecting internal revenues in the Dominican Republic and Haiti.² Before the inauguration in 1916 of the régime of American participation the collection of internal revenue in the Dominican Republic was distinctly inefficient. Since that time, however, the total value of the taxes collected per year has increased until it is now several times what it was in 1916. In Haiti, American assistance began in 1924, when, after negotiating with the Government of the United States, a law was passed by the Hai-

Service, Vol V, Nos. 19-20. Attention may be called to the fact that the international administration of customs in the Dominican Republic and Haiti has been very satisfactory from a financial point of view. The debt of the Dominican Republic was decreased from \$40,000,000 in 1905 to \$15,000,000 in 1926.

¹ See Report of the Senate Investigating Committee, *Senate Document*, No. 794, 67th Cong., 2d Session, 335, 353, 393.

² WILLIAMS, B. H., *op. cit.*, pp. 197-199; also for the Haitian law of 1924 regarding the collection of internal revenue in Haiti see *Le Moniteur*, 1924, p. 267, and the *Foreign Policy Association Information Service*, Vol. V, Nos. 19-20, "The American Occupation of Haiti," by R. L. BUELL, p. 365. As a result of the law of 1924 receipts from internal revenue in Haiti were increased from 2,796,000 *gourdes* in 1924 to 4,090,000 *gourdes* in 1929.

tian Government creating an Internal Revenue Bureau and placing it under the control of the General Receiver for customs.

The International Control of Haiti.

American participation in the government of Haiti extends to other matters than the collection of national revenues. The treaty of 1915 provides for the cooperation of the two countries with respect to several important activities.¹ In Article I it is provided that, "The United States will, by its good offices, aid the Haitian Government in the proper and efficient development of its agricultural, mineral and commercial resources and in the establishment of the finances of Haiti on a firm and solid basis." The general principle embodied in that article is developed in greater detail in the remainder of the treaty.

A financial adviser is appointed by the United States Government to work with the finance ministry of Haiti. Specifically, it is the duty of that officer to "devise an adequate system of public accounting, and in increasing the revenues and adjusting them to the expenses, inquire into the validity of the debts of the Republic, enlighten both Governments with reference to all eventual debts, recommend improved methods of collecting and applying the revenues, and make such other recommendations to the Minister of Finance as may be deemed necessary for the welfare and prosperity of Haiti." These powers are of a supervisory nature, but with the authority of the United States behind him, the American agent has extensive control.

American activities with respect to the local constabulary, both in form and in fact, are more than advisory. The President of Haiti, upon nomination by the President of the United States, appoints Americans to organize the native police and act as its officers. The senior American

¹ *Treaties, Conventions, etc.*, Vol. III, p. 2673

officer of this constabulary may give examinations to Haitians desiring to qualify as officers. Since 1927, it has been the policy of the United States to appoint an increasing number of natives as officers.¹

Measures of sanitation and public improvement are agreed upon jointly by the Government of the United States and that of Haiti. Their execution is under the direction of engineers appointed by the President of Haiti upon nomination by the President of the United States. In 1929 there were thirty-seven Americans in the *Direction Générale* of the Public Health Service, including the Director and forty-one Haitian commissioned physicians.²

American participation in the government of Haiti has been augmented by the occupation of the country by United States marines. The commandant of the Marine Brigade, with several thousand American troops, has cooperated with the local *gendarmerie* in the maintenance of order and security.³ Prior to 1924 American military occupation of the Dominican Republic increased the power of the United States in that country. During the periods of military occupation of the Dominican Republic and Haiti, the combined activities of the civil and military officers of the United States have been so extensive as to detract materially from the authority of the native officials.

Miscellaneous Instances of International Administration Emphasizing the Use of National Agencies.

Early in 1927 the internal condition of Nicaragua was rapidly degenerating into anarchy. Acting as the personal representative of President Coolidge, Colonel Stimson prevailed upon the leaders of the Conservative and Liberal groups to terminate their hostilities and,

¹ BUELL, R. L., "The American Occupation of Haiti," *Foreign Policy Association Information Service*, Vol. V, Nos. 19-20, p. 358.

² *Ibid.*, p. 360.

³ *Ibid.*, p. 349.

with the aid of the United States, to hold an election. Accordingly, President Diaz, in a note of May 15, 1927, requested the President of the United States to provide assistance in the preparation of a "proper election law in Nicaragua, in securing supervision by impartial Americans over the actual conduct of elections, in securing American assistance to train and direct an impartial and non-partisan force of constabulary to secure law and order and prevent intimidation of voters and to in other ways secure American assistance in tranquillizing the sorely disturbed condition of the country so that an election can be fairly held."¹ President Coolidge on June 10, 1927, replied favorably and submitted memoranda suggesting the specific procedure which should be followed.

This exchange of notes, constituting an executive agreement, was supplemented by a decree of President Diaz, issued on March 31, 1928. In accordance with the stipulations of these documents, a commission of three persons, appointed by the Nicaraguan Government at the nomination of the President of the United States, was given the authority "to supervise the election and to prescribe regulations having the force of law for the registration of voters, the casting of their ballots, and all other matters pertaining to the election that are not covered by the electoral law."² The commission was also given the duty of canvassing the number of

¹ The documents relating to American participation in the Nicaraguan election of 1928 were published by the Department of State in press notices dated March 22 and March 26, 1928. They are also available in *The American Journal of International Law*, Supplement, vol 22, pp. 118-124. For a brief discussion of the Nicaraguan elections of 1928 see DODDS, H. W., "American Supervision of the Nicaraguan Election," in *Foreign Affairs*, Vol. 7, No. 3, pp. 488-496. There have been other instances of American participation on a smaller scale in the election of Latin-American states. See *Foreign Relations of the United States*, 1913, p 449.

² Memorandum as to Suggested Steps to be Taken Looking towards the Holding of a Free, Fair, and Impartial Election in Nicaragua in October, 1928, signed by President Diaz. See *The American Journal of International Law*, Supplement, Vol 22, p. 119.

votes cast at the election and of making a final ruling on all questions and contests as to the regularity and legality of votes. The three members of the commission were selected in such a manner that one of them, the chairman, was a citizen of the United States, and the other two were representative, respectively, of the Conservative and Liberal parties. At the suggestion of the chairman, the President of Nicaragua might remove either or both of the two other members from office. The chairman's position was further strengthened by stipulations that he should have a double vote in case of a tie, and that no decision of the commission would be valid unless it received his consent.¹ Until the proclamation of the results of the election the chairman was given the right to command the services of the national constabulary for the purpose of insuring a free and impartial election.

Local election boards for the departments and cantons were organized by the national commission, each of which included an equal number of political members from the two parties and a chairman who was an American citizen. Their functions were prescribed by the national commission.

Brigadier-General Frank R. McCoy was selected as the American member of the commission, and, at the suggestion of the political parties in Nicaragua, officers and privates of the United States Marines were delegated as chairmen of the local boards. These officials, cooperating with the Nicaraguan members of the national and local commissions, administered the election of 1928 successfully so that for the first time in her history Nicaragua witnessed a peaceful change in party government. On January 1, 1929, General José Maria Moncada, the successful Liberal candidate, was inaugurated as President to succeed Adolfo Diaz, Conservative.

¹ A tie vote was possible in the commission when only a quorum of two members were present.

Finally, attention may be directed to the occupation of the Ruhr by France and Belgium in 1923, as an example of international administration. The Reparation Commission declared on December 26, 1922, that Germany was at default in timber deliveries, and on January 6, 1923, made a similar decision with regard to coal. Following these decisions the French and Belgian Governments determined to occupy the Ruhr Valley, asserting that the Treaty of Versailles (Part VIII, Section I, Annex 2, Paragraphs 17 and 18), allowed them to do so. Engineers were sent into the territory with the "powers to supervise the action of the *Kohlensyndikat*, to ensure the strict application of the programs fixed by the Reparation Commission and to take all the measures required to secure the payment of reparation."¹ These engineers, known as the *Mission Interalliée de Contrôle des Usines et des Mines*, were escorted into the Ruhr by French and Belgian military forces. They not only supervised the coal syndicate but also took charge of factories and collected certain taxes payable to the Reparation Commission. French and Belgian customs officers were authorized to cooperate with the German officials with the understanding that the revenue collected would be applied to reparation payments. A Forestry Commission of the occupying powers was also established to control the exploitation of state forests by German foresters and to ensure the delivery of timber.

¹ For the text of the notes of the French and Belgian Governments (January 10) to the German Government outlining their plans see *L'Europe nouvelle*, Jah. 20, 1923. Other information regarding the occupation may be obtained from the note of the Marquess of Curzon of Kedleston to Count de Saint-Aulaire of August 11, 1923, in *Misc No 5 (1923) Correspondence with the Allied Governments Respecting Reparations Payments by Germany*, Cmd. 1943, No 10, p. 48; also the note of M. Poincaré, president of the council, to the Marquess of Crewe, on August 20, 1923, published as *Livre jaune*, entitled "Ministry of Foreign Affairs, Diplomatic Correspondence, Reply of the French Government to the Note of the British Government of Aug. 11, 1923, Relating to Reparations."

An unsuccessful attempt was made by the French and Belgian Governments to extend the jurisdiction of the Inter-Allied High Commission for the Rhineland to the Ruhr.¹ The plan was blocked by the British Government, which threatened to withdraw from the commission if this were done. The agency in control of the occupation remained the Franco-Belgian military High Command, but in spite of that fact, the Rhineland and the Ruhr were governed by almost identical measures. The High Command in the Ruhr gave orders to the German officials which penetrated the whole fabric of the governmental structure of the area.

The results of the above system of government, which was in operation for about nine months, were not satisfactory. The Germans, through a policy of passive resistance, blocked it at every possible point. France and Belgium, as creditors, did not obtain as much in the way of reparation payments as they had been receiving before the occupation began, notwithstanding the stringency of their methods and the hardships which they forced upon the native population.

¹ TOYNBEE, A. J., *Survey of International Affairs*, pp. 275-276, 1924.

CHAPTER IV

THE LEAGUE OF NATIONS AND INTERNATIONAL ADMINISTRATION

From the date of its establishment the activities of the League of Nations have embraced a wide range of interests, somewhat greater in extent than a casual reading of the Covenant would intimate. Among them are many which bear a relationship to the field of international administration.

The League has been given the duty of supervising the administrative work of a number of agencies which are not integral parts of the League and of individual states in immediate charge of designated affairs. In some cases the purpose of the relationship doubtless is to provide an indirect and impartial control over interests which might be arbitrarily managed by a commission or by individual states. The supervisory powers of the League with respect to the mandate system are illustrative of this objective. In other instances it may be the intention to stimulate, through the direction of a common authority, the operations of organizations with commendable programs and to encourage cooperation among them. The supervision of administrative bureaus appears to have this motive.

The powers of the League organs with regard to some administrative activities is more direct than in others. While there is no absolute line of division between supervisory powers and administration in its narrower sense, it is clear that on occasion the officials of the League have been given charge over the subject-matter in question without acting through other agencies or governments. The League commissioner in Austria

during the period of financial reconstruction was authorized to have certain powers of direct management, as illustrated by his control over assigned revenue accounts, although in most respects the machinery of the Austrian Government was in immediate charge.¹ In such arrangements the powers of the League have extended into the field of administration narrowly construed. In the main, however, the League has been confined to supervisory functions.

Another group of administrative functions performed within the League are of a ministerial and informational character. The extensive interests and operations of the organization necessitate a permanent Secretariat to prepare for the deliberations of the other bodies and to put their decisions into force. The policy of the League to make available voluminous information relating to health, economic and other questions, is given effect by the publications which emanate from the Secretariat. These, together with the informal advice given by the Secretariat to states upon request, may exert considerable influence over the formation of national policies. The International Labor Office plays a similar role in the International Labor Organization. While the Labor Office exists apart from the League of Nations, the two are closely related and therefore the former is discussed in this chapter.

The administrative work of the League is authorized and defined by the Covenant, by the resolutions of the Council and Assembly, and by treaties. The International Labor Office operates under Part XIII of the Treaty of Versailles.

The League's Methods of Control.

The League organs have no wide powers of control applicable to all member-states. Whatever restraints

¹ *Principles and Methods of Financial Reconstruction Work*, pp. 44-46, (Published by Secretariat), Geneva, 1930.

there may be upon the freedom of action of member-states come, as a rule, from conventions rather than from the action of administrative agencies. The Covenant, for instance, imposes the general obligation to register treaties with the Secretariat. Similarly, treaties drafted under the auspices of the League, such as the Convention on Customs Formalities drawn up in 1923, prescribe the manner in which states must act.

Administrative control, as distinguished from mere treaty limitations upon the actions of states, exists within the League only for special purposes as defined by the Covenant and by treaties. It does not apply uniformly to member-states. As already indicated, such control is most commonly indirect or supervisory in character.

The organ of the League which is most powerful in this capacity is the Council. Its size and the frequency of its meetings place it in a more favorable position than the Assembly to watch over and direct the activities of administrative bodies. It is assisted by the Secretariat and by the advisory organizations and committees.

The methods of control exercised by the League over the affairs which come within its authority are not identical. Those most commonly used are the following: (1) the receipt of periodical reports and other documents which may be examined and published, (2) the receipt of petitions, (3) the issuance of recommendations, (4) the issuance of instructions, (5) the appointment and removal of officers, empowered in some cases merely to advise and assist but in others to make decisions and control. There are other methods, however, available less widely than those enumerated above.

Because of the importance of the mandate system, a separate treatment will be given to it and to the League's supervision over it in a later chapter. In brief, it may be stated at this point that control over mandatory states is asserted chiefly through annual reports, oral hearings

of mandatory representatives, petitions, and the issuance of recommendations.

In order to indicate more fully the role of the League in existing administrative régimes, it will be desirable to discuss them separately.

The Supervision of International Bureaus.

The directing power of the League of Nations over international bureaus involves three points of contact, as follows: (1) the publications and official documents of those agencies are received by the Secretary-General, (2) the Secretariat delegates an official to be present in an advisory capacity at all meetings of the institutions, (3) annual reports of the work of each institution is sent to the Secretary-General, who circulates them to the Council and the members of the League.¹ It is clear that the League cannot assert wide powers of control over the bureaus by virtue of this relationship.

The Straits Commission.

The Treaty of Lausanne of 1923 provides that the Straits Commission will conduct its activities "under the auspices of the League of Nations to which it will send each year a report giving an account of its accomplishments and furnishing, among other things, all useful information for commerce and navigation."² The reports of the commission of the Council, containing annual records of accomplishments, are circulated to the signatories of the Straits Convention and to any technical organization of the League which may be interested in the information contained therein. The nature of the subject-matter of the reports may be seen from the following summary of the report covering the year 1925:

The first part shows that the commission has almost completely organized the services necessary for its work, but that these services

¹ See Chap. IX for a more complete discussion of the League's relation to international bureaus.

² *British and Foreign State Papers*, Vol. 117. p. 592.

do not possess that full independence which is essential if the commission's neutrality and power of initiative are not to become illusory in matters in which the Turkish Government's own interests are concerned.

The information contained in the second part shows that commercial navigation through the Straits does not as yet enjoy the unrestricted freedom granted to it by the Treaty of Lausanne.

Older systems and provisional regulations resulting from the war still weigh heavily upon the administrations, which have difficulty in freeing themselves from the shackles of traditional practice.

In this direction the duty of the commission is limited by the Straits convention to reporting the facts to the League of Nations. It is for the latter to adopt any means which seem to it effective to hasten the application in their entirety of the principles laid down in the Treaty of Lausanne.¹

The second report, for 1926, drew the attention of the Council to the fact that Turkish warships had passed through the Straits without reporting to the commission on the basis of the contention of the Turkish Government that only foreign warships were under such an obligation.² The Angora Government was willing to furnish the information as a matter of courtesy "if Turkey were to establish the strongest fleet in the Black Sea." The commission's report also stated that it had been laboring with some difficulty to interpret certain passages of the convention. The number of vessels passing through the Straits continued to increase during the year 1926.³

The Straits Commission has also been in communication with the Council of the League from time to time in regard to special matters. On June 1, 1929, for instance, the commission forwarded a list of Russian naval and air forces in the Black Sea which had been obtained upon request from the Russian Government.⁴ On June 20,

¹ See *Official Journal*, 7th year, p. 970, for the report, and *Seventh Yearbook* of the League of Nations; *World Peace Foundation Pamphlets*, Vol. X, No 2-3, p. 344, for the summary

² *Official Journal*, 8th year, No 7, p. 778.

³ For the third report see *ibid.*, 9th year, p. 879.

⁴ *Ibid.*, 10th year, p. 1290.

1929, the commission called the attention of the Council to the fact that thirty-four hydroplanes of the Italian Air Force had arrived at Constantinople by way of the Straits, with the consent of the Turkish Government, and that such a force was contrary to Paragraph 2 of the Annex to Article 2 of the convention, which denies to foreign states the right of sending into the Black Sea a fleet larger than that of the strongest littoral power.¹

League Supervision and Control in Post-war Reconstruction Enterprises.

By special agreements the League of Nations has been given powers relating to reconstruction activities in designated countries of Europe. This work has been done in the main by special agents appointed by and responsible to the Council; the Economic and Financial Organization and the Secretariat have cooperated, however, in the undertakings.

The League was first asked to take up the problem of the restoration of Austria in March, 1921.² In compliance with the request, the Financial Committee of the Economic and Finance Organization sent a delegation to study the situation first hand. The elaborate report, adopted by the Council of the League, was never put into practice on account of the delay which ensued in obtaining the consent of the thirteen interested states. Again, early in 1922, when the condition of Austria had become even more alarming, another committee was selected to devise a scheme for reconstruction. This committee submitted an elaborate report in November, 1922, which became the basis of the scheme of reconstruction that followed.³ The committee estimated that two years would be required in order to attain budget equilibrium

¹ *Ibid*, 10th year, p. 1291.

² *The Financial Reconstruction of Austria*, p. 8, Information Section, Secretariat, 1923.

³ *Official Journal*, 3d year, No. 11, pp. 1463-1471.

and pointed out the need of reform measures relating to state industrial enterprises and to the Austrian civil service. The specific recommendations of the committee embraced the issuance of a loan of 650,000,000 gold crowns to Austria, the establishment of a Bank of Issue, the adoption of a program to cover the deficit during the period of transition, and the establishment of external control. It was admitted in the report that for the first two years Austria must endure harder conditions than those existing in 1922, but it was believed that subsequently there would be a rapid improvement.

It is the administrative side of this scheme of reconstruction which deserves particular attention at this point. Three protocols were concluded between Great Britain, France, Italy, and Czechoslovakia on the one side and Austria on the other, embodying the recommendations of the committee.¹ The execution of these protocols was to be placed in the League of Nations and a Committee of Control supplemented by the Austrian Parliament, which was to provide the legislation necessary to the plan. The report emphasized the necessity of external control in the application of reform measures and recommended that the Council of the League be given the authority to appoint and dismiss subordinate agents and to receive periodical reports on the progress of reconstruction.

The League's control over the internal conditions of Austria was exercised chiefly through a Commissioner-General, appointed and removable by the Council.² The post was intended to last throughout the period of reconstruction. In fact it continued in its original form for two years, after which the powers of the office were modified for a second period of eighteen months.

¹ *Ibid.*, pp. 1471-1479.

² Dr. Zimmerman of Holland was selected for the office on Dec 15, 1922, and retained it until the League's activities in Austria were terminated in 1926.

Four staff officers were attached to the Commissioner-General.

The powers of these special officials of the League were, broadly speaking, to "ensure that the program of reforms is carried out and to supervise its execution."¹ The Commissioner-General advised the Austrian Government and, in addition, possessed certain powers of approval and direct control. For instance, his consent was necessary to release money which had been credited to the Austrian Government from the special loan. This placed him in a position to be able to assure himself that the loan was being spent for the purposes contemplated. Furthermore, the revenues assigned for the service of the loan were paid into an account which he alone controlled; he was empowered to withhold payments from this account in the event that the Austrian Government did not carry out the reform plans contemplated. If the revenues originally given as security for the loan were regarded by the commissioner as inadequate, he might, in agreement with the Austrian Government, arrange further security. One of the most far-reaching powers of control placed in his hands was that of vetoing any measure which in his opinion was likely to diminish the value of assets given as security. Of equal importance was his right to require such modifications and improvements in the revenues of the country as would, in his opinion, increase their productivity. A central bank adviser with the power of exercising a supervisory veto over the decisions of the Board of Directors was appointed by the Austrian Government on the nomination of the commissioner.

A Committee of Control representing the four powers advancing the loan and Austria was also created and given powers involving further international control over reconstruction enterprises. Each member of the committee was allowed "one vote for every 1 per cent

¹ *Official Journal*, 3d year, No. 11, pp. 1463-1471.

guaranteed by his government." Its main powers were as follows:¹

1 The approval of "the method of application of the guarantee, the conditions of the loan, the issue price, the rate of interest, the amortization, the expenses of issue, of negotiation and of delivery."

2. The approval of "the amount of the annuity necessary for the service of interest and amortization of the loan."

3. The approval of "every loan proposed by the Austrian Government, and not falling within the conditions of the programme contemplated in Protocol No. III."

4. The determination of "the conditions under which the advances by the governments should be effected in the event of the guarantee coming into operation, and the method of repaying such advances"

5 The submission to the Commissioner-General of any "administrative changes and improvements calculated to increase the productivity" of the revenues.

6 The approval of any "changes in the rates producing such revenues which might be such as to reduce their minimum total yield"

7. The submission to the Austrian Government of a requirement that the latter provide "periodical statements and accounts and any other information urgently needed in regard to the administration of revenues assigned as security."

Further external control, involving the League, was provided through agents known as trustees, appointed by the Council.² They were to represent the interests of the bondholders, and their duties related chiefly to such matters as constituting reserve funds, transmitting interest payments, managing assigned revenues in service of the loan and reimbursing the balance to the government. In case of default, they were to act with the commissioner in calling on the Austrian Government for necessary adjustments.

The practical operation in Austria of the régime which has been described brought about many changes. By June 15, 1924, the civil service was reduced by 67,101 employees.³ Four government monopolies and ten state undertakings, most of which were unproductive in

¹ *Idem.*

² *Principles and Methods of Financial Reconstruction Work*, p 52, Geneva, 1930.

³ *Official Journal*, p. 1101, August, 1924

1922, showed profits in eleven instances in 1925. The currency was stabilized and the budget was gradually placed upon a sound financial basis. Finally, on June 30, 1926, the régime was terminated.

Towards the end of 1923, the Government of Hungary asked the League to undertake a similar project for the restoration of its financial stability.¹ A scheme, identical in its major aspects to that applied in Austria, was signed on March 14, 1924, and Mr. Jeremiah Smith, Jr., an American, was appointed Commissioner-General.² The régime was inaugurated on May 1, 1924, and was terminated on June 30, 1926, after the finances of Hungary had been placed upon a working basis.³

The League of Nations has been given administrative control with reference to reconstruction programs in several other nations of Europe. In 1923 Greece brought to the attention of the League the problems which she was facing as a result of the influx into the country of nearly a million and a half refugees under her treaties with Bulgaria and Turkey providing for the exchange of minorities.⁴ A protocol was concluded which called for joint control by the League and Greece over the settlement of refugees. Later, in 1927, the Council concluded an agreement with the Greek Government calling for the advice and assistance of the former

¹ *The League of Nations, A Survey*, p. 46.

² For the terms of the protocols concluded by Hungary with England, France, Italy, Roumania, Czechoslovakia, and the Kingdom of the Serbs, Croats, and Slovenes, see the *Official Journal*, p. 802, May, 1924.

³ Count Bethlen, Prime Minister of Hungary, stated at the Assembly session of 1924 that the work of the League in Austria and Hungary had brought about "friendly cooperation, for the first time since the war, between all countries involved in the political life of that part of Europe." *Fifth Assembly, Verbatim Record*, 15th Plenary Meeting, pp. 2-3.

⁴ For the treaty with Bulgaria (1919) see *British and Foreign State Papers*, Vol. 112, p. 997. This treaty provided for voluntary exchange of minorities. The treaty with Turkey (1923) arranged for compulsory exchange; see *ibid.*, Vol. 118, p. 1048.

in the reform of its public finances.¹ In 1926 Bulgaria asked the League for assistance with respect to her refugee problem and two years later requested financial aid.² In 1926 financial reconstruction work was also undertaken in Danzig and Estonia.²

The powers of control exercised by the League in the six régimes mentioned varied according to the extent that the credit of the country in question was impaired and according to peculiar local conditions. The powers of the League in dealing with refugee problems in Greece were unusual and, on the whole, quite as extensive as those exercised in any of the areas under discussion. A commission of four, two appointed by the Council and two by the Greek Government, was established. The chairman and vice-chairman of the agency were *ex-officio* the representatives of the League, with the former possessing a casting vote. The commission was given the status of a legal person, "competent to sue and be sued in its own name, to hold and alienate property of all kinds, and generally to perform any acts which can be performed by a corporation possessing full legal capacity."³ It was not in any sense "dependent upon any Greek executive or administrative authority." The powers of the agency embraced that of acquiring land provided by the Greek Government, selling it to refugees or settling refugees on it as tenants, and administering the proceeds of the special settlement loan. It had nothing to do with Greek revenues assigned as security for the loan; they were under the management of the International Financial Commission established by creditor governments several decades before. The Refugee Commission was obliged to submit reports

¹ *Principles and Methods of Financial Reconstruction Work*, p. 7, Geneva, 1930.

² *Idem.*

³ See *Supplement to the Monthly Summary*, November, 1924, containing documents relating to the settlement of Greek refugees.

every three months to the Council, which might consider them and "take such action thereon as it may consider proper." The bulk of the activities undertaken were under the immediate charge of a subordinate staff of approximately 2,000 Greeks.

Under the first Bulgarian Protocol (1926) for the settlement of refugees, direct control remained to a larger extent in the Bulgarian Government, which created a centralized organization to deal with the matter.¹ The commissioner of the League was empowered to approve of the government's refugee organization and of plans for the expenditure of the settlement loan, to release money for defined purposes such as housing of refugees, drainage and reclamation of land for settlement, improvements in communication, and, in exceptional cases, to make loans to refugees. No persons could be settled unless the commissioner had received a certificate from the Bulgarian Government showing that they were genuine refugees willing to become Bulgarian nationals.

By the second Bulgarian Protocol (1928) the League commissioner was given further duties to last "until the Council has specified that his services are no longer required."² They were chiefly advisory in character and involved less direct control than that possessed by the commissioners for Austria and Hungary. He controlled the proceeds of the loan in such manner that he might refuse to release funds from it if he was satisfied that they would be used for purposes other than those contemplated by the arrangement, or if there was a default on the service of the loan. A special bank adviser was appointed by the Council who lacked the power to veto decisions of the Board of Directors, as exercised by the advisers in Austria and Hungary. No

¹ For the principal documents relating to the scheme see League Document C. 569, M. 211, 1926, II.

² See League of Nations Document C. 338, M. 96, 1928, II.

commission of control, analogous to those provided for Austria and Hungary, was established. Trustees, similar to those for Austria and Hungary, were provided.

In the Greek financial stabilization scheme (1927) the League possessed no administrative powers of control.¹ This may be explained by the fact that the financial credit of Greece was comparatively sound and her budget was nearly balanced. The main problems in Greece centered about the reform of the central bank and a stabilization of the currency. Therefore, no Commissioner-General was provided, and the only special agency provided was an adviser to the bank, appointed by Greece on the recommendation of the Financial Committee of the League. The duties performed by trustees in other areas were given to the International Financial Commission.

In Danzig and Estonia the League's powers of control were very slight.² In addition to bank advisers, the only special agents provided were trustees, appointed by the Council, whose duties included, in addition to those already described for the trustees of Austria, that of liberating the proceeds of the loans.

Minorities and the League of Nations.

At the Paris Conference of 1919 a number of special treaties relating to the protection of minorities were concluded.³ At the request of the Assembly other treaties of a similar character have been made by states as a condition of admission into the League of Nations.⁴

¹ See League of Nations Document C 556, M. 198, 1927, II.

² See League of Nations Documents C. 281, 1926, II, and C. 186, M. 60, 1928, II, respectively.

³ *Protection of Linguistic, Racial and Religious Minorities by the League of Nations. Provisions Contained in the Various International Instruments Now in Force.* 1927.

⁴ *Idem.* The following states are under such minority provisions: Albania, Austria, Bulgaria, Czechoslovakia, Danzig, Estonia, Finland, Greece, Hungary, Latvia, Lithuania, Poland, Roumania, Serb-Croat-Slovene State, Turkey.

These documents describe in considerable detail the rights of minorities which the signatories are bound to respect.

In order to ensure an observance of the obligations which the contracting states have assumed, the League of Nations has been granted supervisory powers. The following provision, taken from the treaty between Czechoslovakia and the Principal Allied and Associated Powers, signed on September 10, 1919, indicates the role of the League:¹

Czechoslovakia agrees that the stipulations of Chapters I and II so far as they affect persons belonging to racial, religious, or linguistic minorities constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of a majority of the Council of the League of Nations. The United States, the British Empire, France, Italy, and Japan hereby agree not to withhold their assent from any modification in these articles which is in due form assented to by a majority of the Council of the League of Nations.

Czechoslovakia agrees that any member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.

It is apparent from Paragraph one, quoted above, that the Council of the League has been given a right, the exercise of which might involve extensive control over national policies. By being able to give or withhold its consent to a modification of the provisions contained in Chapters I and II of the treaties, the Council is in a position to enlarge or maintain on its present basis the legislative and treaty-making powers of the states in question, in so far as minorities are concerned.

A second method of control is given to the Council by Paragraph two in the above quotation, which allows it to consider any infraction or danger of infraction of the obligations assumed by the signatories and to take

¹ Art. 14, Pars. 1 and 2.

whatever action appears feasible. Any member of the Council may bring the attention of the organ to specific cases.

The Council has defined a procedure in accordance with which petitions may be sent to it dealing with the rights of minorities as defined by existing treaties.¹ By this procedure either individual states or the minorities themselves are entitled to dispatch petitions to the Secretary-General of the League, requesting that they be turned over to the Council for consideration. The Secretary-General is expected to send copies of the petitions to the states concerned and to the President of the Council. The President asks either two or four members of the Council to assist him in examining petitions.² Any of these officials, or any other member of the Council, may place the substance of the petitions on the agenda of the Council if the preliminary examination discloses conditions which seem to them to justify such action.

Upon the receipt of copies of petitions from the Secretary-General by the states concerned, explanations may be given in writing. These explanations, together with copies of the petitions, are sent to all of the states which are represented on the Council. In the event that the Council arranges hearings, the states concerned may have representatives present; no arrangement has been made, however, for the representation of the complaining minorities.

In actual practice the Secretary-General receives a large number of petitions annually.³ Many of them are

¹ The Council's definition of the procedure to be used has been embodied in resolutions of October 25, 1920, June 27, 1921, September 5, 1923, and June 13, 1929. See Special Supplement No. 73 of the *Official Journal*. See also ROUCEK, J. S. "Procedure in Minorities Complaints," in *The American Journal of International Law*, Vol. 23, pp. 538-551.

² The Council resolution of June 13, 1929, permits the President, in exceptional cases, to designate four members to act with him.

³ *The Official Journal*, July, 1930, gives the following records for the period beginning June 13, 1929, and ending on May 31, 1930. 57 petitions

not examined by a Council committee for the reason that they do not comply, either in form or in content, with the rules which have been laid down, and a still smaller proportion of them are considered by the Council as a whole.¹

The Council is authorized by the minority treaties "to take such action and to give such direction as it may deem proper," after it has concluded its hearing of a complaint. While this provision appears to authorize the Council to issue instructions to the state concerned, it has been inclined to use less drastic measures. The hearing of the complaint of Hungarian farmers in Roumania, which began on June 11, 1925, resulted in an offer by Roumania to compensate the minorities in question.² Similarly, the hearing of the claims of the Jewish minorities in Hungary led to an adjustment by the latter which was satisfactory to the Council. A petition dated January 30, 1928, raising the question of the right to establish an elementary minority school in Upper Silesia, occasioned a report from the Council covering a number of questions relating to schools in the territory.³

The Powers of the League over the Free City of Danzig.

The government of the Free City of Danzig is a matter of interest in connection with international administration from two points of view. In the first place, there are certain affairs which are controlled jointly by the authorities of Poland and those of the city, as described in Chapter III. In the second place,

were received of which 26 were rejected because in form or content they did not conform to requirements, and 14 Council committees were created to examine them.

¹ Prior to 1925, only three cases were taken up by the Council as a whole.

² *Official Journal*, Vol. 6, pp. 1341-1352.

³ *Ibid.*, Vol. 9, p. 945.

the officials of the League of Nations exercise some control over designated aspects of the city's government.

By Article 103 of the Treaty of Versailles the High Commissioner appointed by the League of Nations was authorized to participate in the drafting of the constitution for the city. The present constitution was drafted in its original form by a Constituent Assembly which met in 1920, but it was not approved by the High Commissioner until May, 1922, after a number of amendments requested by the Council of the League of Nations had been accepted.¹ Article 103 also entrusts the High Commissioner with the duty of dealing in the first instance with differences arising between Poland and the Free City of Danzig in regard to the Treaty of Versailles or other agreements made in accordance with it.²

A treaty signed on November 9, 1920, by Poland and the Free City of Danzig, provides the High Commissioner with other powers of control.³ By Article 6 of that agreement the Polish Government is obliged to consult with the commissioner in concluding any treaty affecting the Free City. That official may "veto any treaty or international agreement, in so far as it applies to the Free City of Danzig, which in the opinion of the Council of the League of Nations is inconsistent with the provisions of the present treaty or with the status of the Free City." The Council has adopted rules of procedure defining the manner in which the High Commissioner shall exercise this right.⁴ The rules adopted on September 6, 1929, by the Council provide for the inclusion upon

¹ *The Saar Basin and Free City of Danzig*, pp 25-26, Information Section of the League Secretariat, 1924. Article 5 of the Constitution suggested by the Council forbids the Free City to fortify itself or to authorize the manufacture of munitions of war on its territory without the consent of the League.

² This duty of the High Commissioner is discussed in Chap III.

³ *British and Foreign State Papers*, Vol. 113, p 965.

⁴ *The League from Year to Year, 1928-1929*, p 183, Information Section of the Secretariat.

its agenda of questions regarding treaties applying to Danzig at the request of the commissioner or of any member of the Council.

The treaty of 1920 further stipulates in Article 7 that Danzig may not contract foreign loans without consulting the Polish Government, and that, if the latter raises objections, the High Commissioner may settle the controversy.¹ Before allowing a loan, the commissioner must assure himself that its conditions are not inconsistent with the status of the city.

The Administration of the Saar Basin.

The Saar Basin Commission is an unusual, if not unique organ. It was created and its powers were broadly defined by the Treaty of Versailles with the result that it enjoys a status apart from that of the League of Nations. On the other hand, in its operation the commission is so closely connected with the League that, for all intents and purposes, it is a League agency. The composition and powers of the organ have been described in an earlier chapter, and therefore it is necessary at this point only to note the relation of the commission to the League.

That it was the intention of the Paris Conference of 1919 to make the commission an agency of the League may be seen from the provision of the Treaty of Versailles that "the government of the territory of the Saar Basin shall be entrusted to a commission representing the League of Nations."² In practice, the powers which the Council has exercised over the organ furnish further evidence of the close relationship.

In the first place, the Council receives and examines quarterly reports from the commission. These reports are comprehensive in the information which they present

¹ Articles 18, 20, 22, 25, and 39 permit the High Commissioner to deal with other controversies. See *British and Foreign State Papers*, Vol. 113, p. 965.

² Treaty of Versailles, Part III, Sec. IV, Annex, Chap. II.

and are accompanied by documents which give further sidelights on administrative activities. The inclusion of such documents was suggested by the Secretary-General in a letter to the commission of June, 1920.¹ The Secretary-General asserted that "these reports should, in my opinion, be accompanied by authentic texts of the resolutions of the commission referring to the political, economic, financial, social and other facts of interest to the League of Nations, as well as of all official publications of the Governing Commission."

A second point of contact between the Council and the commission is furnished by the system of petitions. According to the procedure adopted by the Council regarding petitions, the inhabitants of the Saar must send them to the commission, which in turn is required to forward them to the Secretary-General of the League with such comments as it cares to make.² An incident which occurred in 1923 illustrates the use to which petitions may be put and also shows the emphasis which the system places upon publicity. M. Frantzen, an official in the employ of the Saar Commission, asked for a leave of absence to serve with the French Government in the Ruhr, under French occupation. Petitions were sent to the League, asserting that to allow M. Frantzen's request would constitute a violation of neutrality by the League of Nations. Inquiries instituted by the Council and by M. Rault, President of the commission, disclosed that M. Frantzen had agreed not to return to service in the Saar, and therefore the matter was dropped.³

¹ *Official Journal*, pp. 205-207, June, 1920.

² *Ibid.*, p. 403, October, 1920. Attention may also be called to the fact that the German Government has made complaints directly to the League. The Secretary-General, under such circumstances, has sent copies of the German notes to the Governing Commission with a request for explanations. See RUSSELL, F. M., *The International Government of the Saar*, p. 200, Berkeley, California, 1926.

³ *Official Journal*, 4th year, No. 6, p. 688.

The Council has also held inquiries at the request of governments, as well as at the instigation of individual petitioners. At the suggestion of the British Government, the Council examined the general administration of the territory at its session in July, 1923.¹ The occasion for the British request was the issuance of decrees with reference to the maintenance of order and the suppression of picketing by the commission early in 1923, which had called forth some criticisms both within the Saar and elsewhere. Before the hearing of the Council opened, the decrees were recalled and therefore the matter was dropped without the Council taking any action on it.

On the whole, it does not appear that the Council has interfered with the policies of the commission to any considerable extent but has preferred to allow the agency much freedom of action.² The Council's resolutions with regard to the development of a local *gendarmerie* to take the place of French troops, as an exception to the rule, had some stimulating effect upon the commission's policies in the direction of increasing the police force of the area.³

Another method of control which the Council has over the government of the Saar Basin is provided in the right granted by the Treaty of Versailles to appoint and remove the members of the commission. While the Council is obliged to select a citizen of France and an inhabitant of the Saar, not a French citizen, as two of the five members, no official control may be exerted over those two appointees except by the League of Nations, to which they are responsible. These powers of appointment and removal possessed by the Council carry with them an opportunity to direct policies. More than that, they convert the commission into a League agency for

¹ *The Saar Basin and the Free City of Danzig*, p. 20, Geneva, 1924.

² With regard to this matter see RUSSELL, F. M., *op. cit.*, p. 204.

³ *Ibid*, p. 204. For Council resolutions see *Official Journal*, 4th year, No. 3. v. 364; and 4th year. No. 6. pp. 682-683.

practical purposes. Consequently, the work of the commission involves the League in an unusually direct type of administration.

The Treaty of Versailles stipulates that "the members of the commission shall be appointed for one year and may be reappointed." In practice the Council has reappointed frequently, apparently on the ground that a term of five years is necessary to the formulation and application of effective policies.¹

Finally, the Council is in a position to control the government of the Saar Basin through the issuance of instructions. In February, 1920, when the Council was deliberating with respect to the inauguration of the Saar Basin régime, a suggestion was made that instructions of a general nature for the use of the commission should be drawn up.² The instructions adopted were intended to supplement the provisions of the Treaty of Versailles. They related to such matters as the sessions of the commission, its rules of procedure, the selection of temporary substitutes for its members who were obliged to be absent, and other matters of a similar nature.³ These instructions did not involve matters of detail because the Council preferred to leave such questions to the commission itself.

The Assembly of the League has not endeavored to assume much authority over the government of the Saar Basin. By Article 3 of the Covenant the Assembly may deal with any matter "within the sphere of action of the League," but in practice it has given little attention to the Saar Basin.⁴

¹ There were only two changes in the personnel of the commission from 1920 to 1923. On March 26, 1922, the Council agreed that the original appointees might remain on the commission for five years, though the right to remove them was reserved. See *Official Journal*, 3rd year, No. 5, p. 418.

² *Official Journal*, pp. 45-50, March, 1920.

³ *Ibid.*, pp. 50-52.

⁴ At the Third Assembly there was some discussion of the Saar Basin. See *Records of the Third Assembly*, Plenary Meetings, p. 44.

League Control over the Conduct of the Saar Plebiscite.

The League of Nations has been given several powers of control with respect to the enforcement of the Treaty of Versailles.¹ In most cases the Council has merely been granted the right of terminating or modifying existing arrangements.² In its control over the plebiscite in the Saar Basin, scheduled to occur in 1935, the League's powers are more substantial, involving a larger element of management. The following powers relating to the plebiscite are given to the League by the treaty:³

1. The determination of conditions (other than those mentioned in the treaty), methods, and the date of the voting, "in such a way as to secure the freedom, secrecy and trustworthiness of the voting."

2. The decision of the "sovereignty under which the territory is to be placed, taking into account the wishes of the inhabitants as expressed by the voting."

3. The adoption of measures intended to facilitate the adaptation of the newly established régime to the permanent welfare of the country.

The control of the League over the conduct of the plebiscite is increased by the fact that the Governing Commission will have immediate charge, subject of course to whatever conditions may be imposed under the powers enumerated above.

The Secretariat As a Ministerial and Informational Agency.

The most conspicuous organ of the League of Nations, from the point of view of informational and ministerial activities, is the Secretariat. There was no difference of opinion at the Paris Conference as to the wisdom of

¹ Several other treaties call for some League action in their enforcement. See Treaty of Lausanne, Art. 48; International Régime of Railways and Ports (Art. 36, Statute of Railways, and Art. 22 of Ports).

² For example: Art. 164 allows the Council to modify armament limitations for Germany; Art. 280 permits the Council to extend the period of application of Arts. 271 and 272 relating to shipping; Art. 378 gives the Council the right of revising Arts. 321-330, 332, 365, and 367-369 after the treaty has been in force for five years.

³ Treaty of Versailles, Part III, Sec. IV, Annex III.

creating such an organ, designed to play much the same role in the work of the League that the bureaus had previously played within certain public unions. The idea of a permanent Secretariat appears to have had its origin in the experiences gained during the World War, particularly by the British, in the maintenance of similar bodies, assisting the British Committee of Imperial Defense, the Cabinet, and the various inter-allied councils.¹ It was not expected by the makers of the Covenant that the Secretariat would be able to initiate or shape policies, but rather that it would prepare and give effect to those formulated by the Council and the Assembly.

During the early years of the League's existence the Secretariat played a more vital part in the operations of the League than during recent years. The explanation of that fact is, in part, that the Council and Assembly with their changing personnel were obliged to place great reliance upon the one existing permanent body, at least until the experimental period was ended. Furthermore, the member-states did not delegate outstanding officials to the two deliberative organs of the League, and therefore the conduct of affairs tended to drift more and more into the control of the Secretariat.² Within the Fourth Committee, at its meeting of September 8, 1921, M. Noblemaire of France stated that the Secretariat ought to avoid taking the initiative too often, that its duty is not to suggest the decisions which should be made by the Council and the Assembly but "to prepare them and carry them out."³ He believed that if the Secretariat did not follow this conception of its proper sphere, "it would be in danger of dealing a mortal

¹ BAKER, P., *Les origines et l'oeuvre de la Société des Nations*, Vol. II, pp. 21, 40, Copenhagen, 1924.

² RAPPARD, W. E., "The Evolution of the League of Nations," in *The American Political Science Review*, pp. 810-811, November, 1927.

³ *The Records of the Second Assembly, Meetings of Committees*, II, p. 7.

blow to the League of Nations." During recent years the organ has been less open to the criticism that it has been too dominant, and it seems to have found its legitimate sphere of activities.¹

The Secretariat is headed by a Secretary-General, who under Article 6 of the Covenant shall be appointed by the Council, with the approval of a majority of the Assembly, after the expiration of the term of the first incumbent, Sir Eric Drummond, named in the Annex. He is responsible for the efficient conduct of the work of the office. For that reason he has been given the right of appointing the subordinate personnel, but in practice, he is limited in his selection and control of those officers by the rules adopted by the Assembly in 1921, which have been described elsewhere. Any question of policy within the Secretariat is given the direct attention of the Secretary-General, and it is only in regard to purely technical matters that subordinates are free to act independently.² The Secretary-General travels extensively, particularly among the capital cities of member-states, in order to acquaint himself with national officials and to come into contact with local conditions

¹ Professor W. E. Rappard has contrasted the earlier position of the Secretariat with that which it occupies today in the following simile, which he admits to be somewhat overdrawn:

"During these first years, Council meetings might sometimes have been compared with the harmless pastime of children playing with their toy sailboats on the pond of a city park, the masterful children being the Secretariat and the card-board admirals on board the boats the dignified and indolent representatives of the powers. As the League grew in importance, a gradual change came about. National governments, recognizing its possibilities, tended to send their most representative men to Geneva, to entrust their national civil services with the preparation of official instructions, and earnestly to discuss these instructions before League meetings. Accordingly, the pond became the high seas of the political world, the toy sailboats the super-dreadnaughts of national policy, and the bemedalled and beplumed but very passive admirals the real commanders in action." "Evolution of the League of Nations," *The American Political Science Review*, p. 811, 1927.

² HOWARD-ELLIS, C., *The Origin, Structure and Working of the League of Nations*, p. 184.

and opinions.¹ He is assisted by a Deputy Secretary-General and three Under-Secretaries, within whose charge are placed designated sections of the office. There is also a Legal Adviser, who has in many ways the status of an Under-Secretary.²

Those subdivisions within the Secretariat which contribute to its ministerial and informational work are as follows:³

1. *Political Section*.—This section furnishes assistance to the Secretary-General and to the Council on questions relating to security and the maintenance of peace under Articles 10, 11, 16, and 17 of the Covenant.

2. *The Information Section*.—This organ is designed to provide publicity on matters relating to the League's activities and to publish material which will stimulate and maintain public interest. The section publishes a *Monthly Summary* and pamphlets dealing with special aspects of the League's work. The work of this branch of the Secretariat has been expanding rapidly with the increasing frequency of conferences and meetings which occur at Geneva, bringing journalists into the city and necessitating the dispatch of documents. It is estimated that the Economic Conference alone in 1927 brought two hundred newspaper men to Geneva and involved the sending of forty-seven thousand documents. The *Monthly Summary* in 1921 averaged twelve pages and was printed in two languages, but during recent years it has averaged thirty pages and has been issued in six languages.

3. *Legal Section*.—Many of the activities of the League of Nations require the availability of legal advice, such as the drafting and interpretation of conventions. The

¹ *Idem*.

² *Ibid.*, p. 185.

³ The information regarding the present structure of the Secretariat is obtained chiefly from the Minutes of the Fourth Committee in *Official Journal*, Special Supplement No. 58, p. 205; *Official Journal*, 9th year, No. 11, Budget for 1929; and HOWARD-ELLIS, C., *op. cit.*, pp. 184-194.

Legal Section is headed by a Legal Adviser through whom this function is performed. While most of the national delegations to committee sessions and conferences rely chiefly on their own legal advisers, they may make use of the Legal Section if they so desire.

4. *Economic and Financial Section.*—In addition to the sections above described which serve the whole League or the Council and Assembly, there are a number which aid advisory, technical, and administrative organizations in the accomplishment of their work. The Economic and Financial Section assists the Economic and Financial Organization. It issues a number of publications, notably the *Monthly Bulletin of Statistics*, containing data relative to price fluctuations in the realm of business. The work of the organization which the section serves has been increasing in such volume that the section itself has become extremely active.

5. *The Health Section.*—There is a Health Organization of the League which this section assists in much the same manner as the Economic and Financial Organization is served by its corresponding section. The publications which are issued by this branch of the Secretariat include: the *Epidemiological Intelligence Bulletin*, the *Epidemiological Bulletin*, the *Epidemiological Survey*, and the *Annual Health Yearbook*.

6. *The Social Section.*—Secretarial aid is available in this section for the Committee on Traffic in Opium, the Committee on Traffic in Women and Children, and the Committee on the Promotion of Child Welfare.

7. *Section of International Bureaus and Intellectual Cooperation.*—The supervisory work of the League in relation to international bureaus is done in the main through this section. A *Quarterly Bulletin of Information on the Work of International Organizations* is issued by this branch of the Secretariat and from time to time a special publication entitled *Handbook of International Organizations* is also published. The section also has

the duty of working with the Committee on Intellectual Cooperation in a secretarial capacity, but many of the functions that have been exercised in this connection are now done by the Institute of Intellectual Cooperation.

8. *Disarmament Section*.—The League maintains committees and sub-committees dealing with the subject of disarmament, whose work this branch of the Secretariat assists. There are two yearbooks published by the section, known as the *Trade in Arms Yearbook* and the *General and Statistical Yearbook on Disarmament*. A report adopted by the Eighth Assembly indicates that the duties of this organization have been rapidly extended during recent years on account of: (1) the termination of various systems of supervision of disarmament clauses of the treaties of peace, which has resulted in more activity of the Council in this field, (2) the enlargement of the contents of the two yearbooks, and (3) the frequency of the meetings that have occurred in regard to Article VIII of the Covenant. Several hundreds of meetings of committees and sub-committees are assisted annually by the section.

9. *Mandates Section*.—The work of this branch is described elsewhere.

10. *The Administrative Commissions and Minorities Section*.—This section has been dealt with in this chapter.

11. *Communication and Transit Section*.—The section serves in a secretarial capacity to the Communication and Transit Organization. It also publishes a number of reports.

12. *Treasurer*.—This office has the task of caring for the funds of the League and disbursing them under the authority of the budget.

13. *The Internal Services*.—The following are the services of the Secretariat having to do with its internal functioning rather than with the activities of

the League considered as a whole or the work of special organizations:

Central services	{	Stationery, supplies, and General contracts Building committee Stenographers' branch Duplicating and multigraph service Distribution of documents Miscellaneous services
Personnel office		
Precis-writing department	{	French section English section
Printing and publication department		
Drafting committee		
Interpreting and translating	{	French section English section
Library		
Registry and indexing of publications service		
Accounting branch		
Internal control office	{	House staff Liaison with Latin America Branch offices

A special committee has been working on the subject of the reorganization of the Secretariat. At a meeting held in June, 1930, a series of proposals was formulated which contemplates a grouping of the offices of the Secretariat into fourteen departments, each of which would be headed by an Under-Secretary-General or by an official with some other title.¹ Collectively, this group of fourteen would form a cabinet to advise the Secretary-General.

The foregoing description of the organization of the Secretariat has incidentally brought to light some of its most prominent duties. In order to emphasize them and to point out the volume of work accomplished it will be appropriate to allow them a separate discussion.

¹ The *Monthly Summary of the League of Nations*, Vol. X, No. 6, p. 122. The committee has also dealt with the organization of the Labor Office and the Registry of the Permanent Court of International Justice. The report of the committee had not been adopted at the time when this book went to the press.

The informational function, which occupies an important place in the work of public bureaus, is an outstanding feature of the Secretariat's activities. Publications are issued not only by the sections but also by the internal services. The *Official Journal*, the most important single publication of the League, is compiled within the offices that are part of the internal services. The extensive nature of the informational activities of the League may be seen from the fact that in 1926, 3,850 documents were published.¹ During the course of a year approximately 500,000 copies of documents are dispatched to members of the League. The number of documents dealt with by the registry per annum has shown a steady increase.² This suggests the increasing availability of information which members of the League may use in the formulation of their policies.

Not only through the dissemination of information in its regular publications, but also through its correspondence with states, the Secretariat may have considerable influence over state policies. In no case, however, does it possess powers of control. The Secretariat has been consulted privately by representatives

¹ *Official Journal*, Special Supplement No. 58, Minutes of the Fourth Committee (Eighth Assembly), p. 206.

² *Ibid.*, p. 212 The following table illustrates this fact:

Year	Incoming documents	Outgoing	Total
1919	3,669	1,984	5,653
1920	13,230	7,043	20,273
1921	22,558	11,312	33,870
1922	23,018	14,041	37,419
1923	28,172	20,413	48,585
1924	31,515	22,138	53,653
1925	31,063	21,742	52,805
1926	34,067	24,369	58,240
1927 (first 3 mo.)	10,651	6,589	17,240

of governments preliminary to the arrangement of League assistance in financial reconstruction work and during the course of such efforts.¹

Another duty of the Secretariat which deserves especial attention is the registration of treaties. By Article 18 of the Covenant it is provided that "every treaty or international engagement entered into hereafter by any member of the League shall be forthwith registered with the Secretariat and shall as soon as possible be published by it." It is further stipulated by the same Article that no treaty shall be regarded as binding until it has been so registered. It is the purpose of this requirement to minimize the possibility of secret pacts by the substitution of a system of publicity. In a memorandum of the Council approved on May 19, 1920, the value of publicity as a sanction of international engagements and as a method of fostering public control and confidence was emphasized. The memorandum also contained a group of conclusions relative to the application of Article 18, which today are basic to the work of the Secretariat at this point.² In accordance with this document it is stipulated that the "latest date" at which the parties to a treaty may register it is the date when the treaty is understood between the parties to have "final binding force." Members of the League are required to register all of their treaties, even though they are concluded with non-member states, and agreements between non-members will be accepted for registration. The applicant for registration is expected to submit with the copy of the engagement "all appurtenant declarations, protocols, ratifications," and a statement that the text as submitted is complete. Application for registration may be made by telegraphic communication in "cases of necessity."

¹ *Principles and Methods of Financial Reconstruction Work*, p. 16.

² HUDSON, M. O., "The Registration and Publication of Treaties," *The American Journal of International Law*, p. 276, 1925.

The method by which the Secretariat registers treaties was also dealt with in the memorandum.¹ A register entitled, "Registration of Treaties," is maintained, in which a chronological record of all treaties is inscribed, including their titles, parties, dates of signature, dates of ratification and registration, and any special comment which is regarded as desirable. The texts are kept as an annex to the register and both are accessible to the public. Registration certificates are sent to the parties concerned.

A question arose late in 1920 as to whether France and Belgium were under obligation by Article 18 to register a military understanding which had been signed by the chiefs of staffs of their respective armies on September 7.² An exchange of letters between the two governments approving the understanding was registered on November 4, but the terms of the agreement itself were not disclosed. At the suggestion of the Assembly, the Council established a special committee at its session of February, 1921, to formulate an interpretation of Article 18 as to its application in the case at hand. Upon the basis of the report of this committee the First Committee of the Assembly proposed that the following be added to Article 18 of the Covenant by way of amendment:

Nevertheless, if treaties or international engagements are registered within three months of the time when they are definitely concluded, the effect of the registration will date back to that time.

It shall not be obligatory to submit for registration instruments of a purely technical or administrative nature which have no bearing on political international relations, nor instruments which consist merely of technical regulations defining without in any way modifying an instrument already registered, or which are only designed to enable such an instrument to be carried into effect.

Regulations adopted unanimously by the Assembly shall lay down the way in which these articles shall be applied.³

¹ *Ibid.*, p. 278.

² *Ibid.*, p. 280.

³ *Ibid.*, pp. 283-284.

In subsequent Assembly sessions the question of interpreting Article 18, either by an amendment to the Covenant or by a resolution, has come up but has not been settled.

Since July 5, 1920, when the first treaty was registered, this function of the Secretariat has been expanding steadily in importance. On September 30, 1928, seventy-two volumes of over four hundred pages each had been published under the title of the *Treaty Series*, in which were contained some seventeen hundred treaties.¹ The total registration on November 1, 1928, exclusive of treaties filed by the United States, was eighteen hundred and fifty-nine, as follows:²

1920 (July-Dec)	70	1925	249
1921	128	1926	350
1922	165	1927	221
1923.. . . .	180	1928 (Jan-Oct.)	211
1924.	251		

The United States has been communicating treaties to the Secretariat since 1926.³ The agreements which have been registered deal with all types of subjects that are regarded as adapted to international regulation, including arbitration, regulation of the liquor traffic, commerce and navigation, customs, frontiers, fisheries, sanitation, intellectual relations, extradition, political questions, and numerous others.

Among the important duties of the Secretary-General which relate to the internal administration of the League is that of preparing the budget. In general the finances of the League are managed in accordance with regulations approved by the Assembly.⁴ The budget, as presented

¹ *The League, Year to Year*, 1929, p. 93, Published by the Secretariat, Information Section.

² MYERS, D. P., "Nine Years of the League of Nations," *World Peace Foundation Pamphlet*, Vol. XII, No. 1 p. 42.

³ American Cooperation with Other Nations through the League of Nations, 1919-1926, *World Peace Foundation Pamphlets*, p. 16, 1926.

⁴ *Regulations for the Financial Administration of the League of Nations*. League Document C. 614 M, 191, 1928 X. These regulations were amended in 1928, and in 1929 they were published in complete form.

to the Supervisory Committee, consists of four parts: the first covers the expenses of the Secretariat as compiled by the Secretary; the second includes the estimates of the International Labor Office, prepared by the Director and approved by the Governing Body; the third concerns the Permanent Court of International Justice, prepared by the Registrar and approved by the President of the Court; the fourth is known as the "working capital fund." While the Council may consider the expenditures proposed for the Secretariat and the Court, it has not been inclined to alter items. The Assembly's action on the budget is final.

The Secretariat performs many other services for the organs of the League. It provides secretarial staffs for meetings of the Council, Assembly, committees, and special conferences, has custody over documents and communicates with member-states.

The First Assembly in 1920 established a group of technical organizations and advisory committees which work with the Secretariat in the performance of ministerial and informational duties. There are three of the former, known as the International Health Organization, the Communication and Transit Organization, and the Economic and Financial Organization. Each includes, as its most important organ, a permanent committee. There are six permanent advisory committees, which deal, respectively, with Mandates, Opium, Traffic in Women and Children, Intellectual Cooperation, Child Welfare, and Military Questions. Both the technical organizations and advisory committees contain experts selected in various ways from either member or non-member states. They are primarily advisory bodies to the Council, but each is expected to work in close harmony with that section of the Secretariat which is related to it. For instance, the publication policies of the Health Section of the Secretariat are fixed in collaboration with the Health Organization.

The International Labor Office as a Ministerial and Informational Agency.

The Treaty of Versailles provided in Part XIII for an International Labor Organization whose object it is to encourage uniformity among states in their regulation of labor conditions through the drafting and adoption of international conventions and the instigation of national legislation along prescribed lines.¹ The essential machinery of the institution consists of a General Conference, a Governing Body, a Labor Office, and a Commission of Inquiry. It is the purpose of the conference to formulate recommendations for national legislative action and to draft conventions for acceptance by member-states. The Commission of Inquiry is an organ, formed from a panel of names at the time when it is needed, whose duty it is to deal with complaints in regard to the application by individual countries of the conventions that have been adopted.

The International Labor Office and the Governing Body perform ministerial and informational functions.² The former agency is intended to serve the International Labor Organization in much the same manner that the Secretariat assists the League. The staff and employees are selected by the Director under the same regulations that hold for the Secretariat. Its functions are defined as follows by Article 396 of the Treaty:

The functions of the International Labor Office shall include the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and labor, and particularly the examination of subjects which it is proposed to bring before the Conference with a view to the conclusion of international conventions, and the conduct of such special investigations as may be ordered by the Conference.

It will prepare the agenda for the meetings of the Conference.

¹ The other treaties terminating the World War contained identical provisions in regard to the organization.

² Treaty of Versailles, Articles 392-399, give the essential provisions in relation to the Labor Office and Governing Body.

It will carry out the duties required of it by the provisions of this Part of the Present Treaty in connection with international disputes.

It will edit and publish in French and English, and in such other languages as the Governing Body may think desirable, a periodical paper dealing with the problems of industry and employment of international interest.

Generally, in addition to the functions set out in this Article, it shall have such other powers and duties as may be assigned to it by the Conference.

Like the Secretariat of the League of Nations the Labor Office answers inquiries from states and private organizations or persons. In 1927 the office received one hundred and forty-six requests for information from governments relating to such matters as conditions of work, social insurance, unemployment and labor legislation.¹ The answers to these requests, together with the regular publications of the organ may be very influential in the formulation of national policies.

The extensive nature of the operations of the International Labor Office may be seen not only from its size, which has been referred to elsewhere in this volume, but also from the amount of its expenditures. The budget for 1929 allowed a total of 8,612,640 Swiss francs for the International Labor Organization, the bulk of which was applied to the maintenance of the Labor Office.² This sum makes up nearly one-third of the total League budget, which provided for an expenditure of 27,026,280 Swiss francs during 1929 for the upkeep of the League proper, the Permanent Court of International Justice, and the International Labor Organization. The Labor Office makes available secretarial staffs for the conferences, which have occurred annually except in 1926 when two were held, and for the numerous meetings of the special commissions and the Governing Body. A large number of publications are issued

¹ *Report of the Director*, 1928, p. 46. In 1927 there were seven hundred and seventy-four requests for information from private sources.

² *Official Journal*, 9th year, No. 11, Budget for 1929.

annually, of which the most important are: the *International Labor Review*, the *Industrial and Labor Information*, the *Official Bulletin*, the *Legislative Series*, the *International Survey of Legal Decisions on Labor Law*, the *Industrial Safety Survey*, the *Monthly Record of Migration*.¹ Special studies, reports, bibliographies, and the documents of the conference sessions are also published.

Within the International Labor Office there is a cabinet of five persons, which acts in the capacity of a private Secretariat to the Director, preparing matters to be submitted to him, transmitting decisions to him and seeing that they are carried out.² The internal organization of the International Labor Office supplements the directorate and the cabinet. It consists of three divisions and two autonomous sections, as follows:³

The Diplomatic Division is responsible for correspondence arising out of the general application and interpretation of Part XIII of the Peace Treaty, for the preparation of Sessions of the Conference and for the secretarial duties of the Conference and of the Governing Body, also for correspondence connected with the procedure of ratification and of the application and interpretation of the Draft Conventions. It is also responsible for questions concerning native labour.

The Research Division is responsible, as its name implies, for the research work of the Office. It contains sections and services dealing with statistics, labour legislation, unemployment, industrial health and safety, social insurance, disablement, agriculture, technical and vocational education, and other questions.

The Intelligence and Liaison Division is responsible for correspondence and maintenance of relations with employers' organizations, trade unions, cooperative societies, and also with other international organizations interested in problems of labour and industry. It is

¹ All of the publications are in French and English; the *Legislative Series*, the *International Survey of Legal Decisions*, and the *Industrial Safety Survey* are also in German.

² Records of the Eighth Assembly, Minutes of the Fourth Committee, Geneva, 1927. See *Official Journal*, Special Supplement 58, p. 228.

³ *Ibid*, pp. 228-244. Also *The International Labor Organization*, Constitution, Object, Results, Geneva, 1928, from which this summary was taken.

responsible also for the collection of information with regard to current events in the field of labour and industry throughout the world. The Library and Periodicals Service also belong to this Division.

The Administrative Section is responsible for the coordination of all the administrative work of the Office, and more particularly for the supervision of the central and material services.

The Publications Section is responsible, as its name indicates, for the editing, printing, issuing and sale of the publications of the Office.

In addition to the headquarters staff at Geneva, branch offices have been established in seven of the most important industrial countries, including Great Britain, France, the United States, Italy, Germany, Japan, and India.¹ These branch offices cooperate with the central Labor Office by following closely the principal movements in industry and labor within the countries mentioned.

The Governing Body, under Article 393 of the Treaty of Versailles, is made up of twenty-four persons, of whom twelve represent governments, six are elected by groups representing employers, and six are chosen as delegates of workers. Its chief duty from an administrative point of view is to supervise the work of the International Labor Office. This function is authorized by the provisions of the treaty, which permit the Governing Body to select the Director of the Labor Office and to instruct him as to the manner in which the office shall conduct its business.

The operations of the International Labor Office are facilitated by the existence of permanent commissions or committees which have been created from time to time to deal with specified subjects. There are four committees of the Governing Body, as follows:²

¹ The cities in which these offices are located are: London, Paris, Washington, Rome, Berlin, Tokyo, and Delhi.

² "Industry, Governments, and Labor," *World Peace Foundation Pamphlets*, Vol. XI, Nos. 4-5, pp. 68-69, Boston, 1928.

1. Committee on Conditions of Work in Coal Mines, originally appointed to supervise the investigation of this subject by the Labor Office. It has been continued to supervise the extension of the investigation to conditions other than hours of work and wages.

2. Unemployment Committee, appointed to supervise the work of the Office on unemployment.

3. Committee on Social Charges, formed in 1926 to assist the Labor Office in surveying the cost of social services in specified countries

4. Hours Committee, to examine problems relating to hours of work

There is a second group of committees which include members of the Governing Body, technical experts, and representatives of other institutions.¹ Their activities relate in the main to the procurement of information and in some instances to the preparation of material for the use of the conference. At the present time there are the following committees of this type in existence: Joint Maritime Commission, Mixed Advisory Agricultural Committee, Permanent Migration Committee, Advisory Committee on Intellectual Workers, and Correspondence Committee on Industrial Hygiene and Safety. Finally, there are three committees, composed exclusively of experts, whose efforts are directed to such tasks as the examination of reports, the collection of desired data, and other similar duties.

¹ *Ibid*, pp. 69-70

CHAPTER V

MANDATORY ADMINISTRATION WITH LEAGUE SUPERVISION

The Paris Peace Conference of 1919, faced with the problem of determining the future status of the former German colonies and the territories which had been released from Turkish domination, incorporated into Article 22 of the Covenant the framework for the present mandate system. General Smuts of South Africa and President Wilson were the members of the conference who were most active in originating and formulating the project. There are now approximately 17,000,000 people living within the territories to which the mandate system is applied.

The Mandate System in Relation to International Administration.

It should be emphasized that the League of Nations is not expected to administer the territories directly under the mandate system. There had been some advocacy before 1919 of League administration of the territories in question, particularly among socialists. The war aims of the British Labor Party proposed the administration of Armenia, Mesopotamia, and Arabia by a commission under the League of Nations.¹ They also included an assertion of the desirability of placing the colonies of all belligerents in tropical Africa under the control of the League of Nations. These projects did not meet with wide favor at the conference, partly

¹ TEMPERLEY, H. W. V., *The History of the Peace Conference of Paris*, Vol. I, p. 217, London, 1920.

because they involved a loss of national control over resourceful territories and partly on account of the belief that the direct administration of the League would not be satisfactory. Experiences with direct international administration of territory in Samoa, Egypt, Morocco, and the New Hebrides were regarded as inauspicious to an extension of the idea.¹

As provided in Article 22 of the Covenant the chief function of the League of Nations is to supervise the administration of backward areas with the advanced states acting as mandatories. The League does not confine itself exclusively to supervisory action, however, as was indicated in the report of the Mandates Commission to the Council after the investigation of the Syrian affair, containing the following statements:²

The task of the commission is one of supervision and cooperation. It is its duty, when carefully examining the reports of the mandatory powers, to determine how far the principles of the Covenant and of the mandates have been truly applied in the administration of the different territories. But at the same time it is its duty to do the utmost that lies in its power to assist the mandatory governments in carrying out the important and difficult tasks which they are accomplishing on behalf of the League of Nations, and on which they render reports to the Council.

The League's activities with regard to the mandate system are administrative only in the sense that they are supervisory and cooperative.

On the assumption that the backward areas do not come under the sovereignty of the mandatories, the mandate system may be regarded as presenting an instance of international administration from a second point of view. There are at least ten theories regarding the location of sovereignty in mandated communities, which may be arranged in four main groups according

¹ *Ibid.*, Vol II, p. 232.

² *Minutes of the Eighth Session, Mandates Commission*, p. 200.

as sovereignty is attributed to the Principal Allied and Associated Powers, the mandatories, the mandated communities, or the League of Nations.¹ The cooperation of native authorities with the mandatory state produces a most unusual form of international control, provided that the former are not to be regarded as coming under the sovereignty of the latter. According to the location of sovereignty the native governments are independent, or they are representative of the Principal Allied and Associated Powers, the League of Nations, or the mandatories. In every case except the last, the mandatory accepts the assistance of officials of other sovereignties.

In practice the importance given to the native political institutions varies within the different mandates.² In Iraq and Transjordan the authorities of the native kingdoms are in immediate control, but they are obliged in certain cases to follow the advice of British officials. In Syria and Palestine the native institutions have been supplanted to a much greater extent by the agents of the mandatories. In B and C territories there is no requirement that native participation in the government shall be ensured, but in practice it is allowed. It is probable that of the B mandates Ruanda possesses the largest autonomy, the structure of the local kingdom having been altered only slightly by the Belgian Government.

The mandate system involves that method of international administration which utilizes national officers. There are a few international officers of the League of Nations in the Secretariat and in the Mandates Commission who participate in the control of backward areas, but the governing agencies within the mandated regions themselves are exclusively national.

¹ WRIGHT, Q., *Mandates under the League of Nations*, pp. 319-339, Chicago, 1930

² *Ibid*, pp 243-249.

The Powers of the Mandatories.

The powers and duties of the mandatories are described by Article 22 of the Covenant, supplemented by the provisions of the individual mandates. Article 22 asserts that the well-being and development of the territories which have ceased to be under the sovereignty of Germany and Turkey form a "sacred trust of civilization," that their tutelage should be entrusted to advanced nations and exercised "on behalf of the League." The Covenant recognizes that the territories to which the mandate system is applied are of different types, and that the character of the mandate must be adjusted, therefore, to the degree of development of the people, the geographical situation of the territory, and its economic conditions. In accordance with this theory the territories are divided into three groups, known as A, B, and C mandates. The A mandates include the communities which were formerly a part of Turkey (Mesopotamia, Syria and Palestine), in regard to which the mandatory is expected to give "administrative advice and assistance" until they are able to govern themselves. The class B group comprises the former colonies of Germany in Central Africa (Togoland, the Cameroons, and Tanganyika), where the mandatory "must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms and liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other members of the League." Finally, in the C group were placed Southwest Africa and the former German possessions in the Pacific Ocean, which are administered

“under the laws of the mandatory as integral portions of its territory,” subject to the same safeguards as to the interests of the native populations that have been mentioned as applying in the B mandates. The territories were allocated by the Supreme Council at its meetings of May 7, 1919, in Paris and of April 25, 1920 in San Remo.¹

The terms of the individual mandates, which define the powers of the mandatories more precisely than the Covenant, were not included in the treaties of peace as desired by some of the members of the Paris Conference, but were left to be dealt with in separate documents. The Covenant merely stipulates that “the degree of authority, control, or administration to be exercised by the mandatory shall, if not previously agreed upon by the members of the League, be explicitly defined in each case by the Council.” An attempt was made in July, 1919, by a body of colonial experts representing the interested states, to draft mandates for B and C territories, but it was not possible to form an agreement.² The procedure finally followed was for the mandatories to draft their own mandates and to submit them to the

¹ See *The League of Nations—The Mandate System*, pp. 9–10, published by the Information Section of the Secretariat, Geneva, 1927.

The following distribution was made:

- Class A: Syria—France
 - Palestine and Transjordan—Great Britain
 - Mesopotamia—Great Britain
- Class B: Togoland (one section)—France
 - Togoland (one section)—Great Britain
 - Cameroons (one section)—France
 - Cameroons (one section)—Great Britain
 - Tanganyika—Great Britain
 - Ruanda-Urundi—Belgium
- Class C: Southwest Africa—Union of South Africa
 - Samoa—New Zealand
 - Nauru—British Empire
 - German Islands (south of equator)—Australia
 - German Islands (north of equator)—Japan

² *Ibid.*, p. 11.

Council of the League for amendment and adoption. By the summer of 1922 the mandates for all of the territories had been approved.¹

The main principles incorporated in the mandates were expressed by M. Hymans in a special report which was adopted by the Council on August 5, 1920. It contained the following statements:²

The degree of authority, control or administration is, so far as B and C mandates are concerned, a question of only secondary importance.

In the former case as in the latter, the mandatory power will enjoy, in my judgment, a full exercise of sovereignty, in so far as such exercise is consistent with the carrying out of the obligations imposed by paragraphs 5 and 6. In paragraph 6, which deals with C mandates, the scope of these obligations is perhaps narrower than in paragraph 5, thus allowing the mandatory power more nearly to assimilate the mandated territory to its own. I, therefore, conclude that it is not indispensable that B and C should contain any stipulations whatever regarding the degree of authority or administration.

On the other hand, so far as A mandates are concerned, this question becomes more important than any other. The Covenant lays down no future guarantee for the benefit of the inhabitants of the territory formerly a part of the Turkish Empire, save what is involved in the provisional independence provided for by paragraph 4, and, nevertheless, it is clear that this is a notion capable of an infinite series of interpretation, and that it would be right to adopt administrative régimes, which will vary according to the principles and systems of government of the respective mandatory powers.

There are a few general provisions to be found in all, or in nearly all, of the mandates as finally adopted. In every instance but one there is a clause giving full power of legislation and administration to the mandatory, subject to the provisions of the mandate.³ There is a

¹ For the texts of all of the mandates see the *Official Journal*, pp. 862-887, 1007, 1013, August, 1922; and pp. 85-95, January-February, 1921. The mandate for Palestine is given as Appendix IV of this volume.

² *Obligations Falling upon the League under the Terms of Article 22 of the Covenant*, report presented by the Belgian representative, M. Hymans, and adopted by the Council of the League of Nations, p. 5, Aug. 5, 1920.

³ The exception is the mandate for Syria.

universal requirement that the consent of the Council must be obtained for any modification of the terms of a mandate. A stipulation, common to all, allows the Permanent Court of International Justice to have compulsory jurisdiction over disputes between the mandatory and another member of the League of Nations relating to the interpretation or application of the provisions of the mandate, if it is not possible to settle them by negotiation.

The terms of the C mandates are identical with each other and do not involve as much detail as may be found in either the A or the B mandates. The mandatory is instructed to see to it that the slave trade is prohibited, that the traffic in arms and ammunition is controlled in accordance with the principles contained in the convention of 1919, and that the natives are not supplied with intoxicating liquors. Military training of the natives, other than for purposes of internal police and local defence, and the establishment of fortifications are forbidden. Freedom of conscience and the free exercise of all forms of worship must be guaranteed, and missionaries and other nationals of states belonging to the League of Nations must be allowed to "enter into, travel and reside in the territory for the purpose of prosecuting their calling." There are no provisions for economic equality among members of the League with respect to the territories under C mandates.

The B mandates are somewhat more explicit and detailed in content. They are not identical with each other, but the differences are slight and do not relate to fundamentals. The clauses dealing with the military training of the natives and the establishment of fortifications are the same as those contained in the C mandates, except that in the French portions of the Cameroons and Togoland native troops may be raised in the event of a general war "to repel an attack or for the defence of territory outside that subject to the mandate." There

is no difference between the provisions of B and C mandates with regard to freedom of conscience and the free exercise of worship. Detailed attention is given to the principle of the open door as it is understood to apply in the B territories, with particular reference to immigration, the acquisition of property, trade and professional rights, freedom of transit and navigation, and concessions. The mandatory agrees in each case to provide for the emancipation of slaves, to prohibit forced labor, to suppress the slave trade, to supervise labor contracts and the recruiting of labor, and to exercise strict control over the traffic in arms and ammunition and the sale of spirituous liquors. The mandated areas may be joined with adjacent territories which belong to mandatory states in order to form customs, fiscal, and administrative unions. In several of the B mandates the mandatory is authorized to apply general international conventions relating to such matters as traffic in drugs and freedom of transit.

The A mandates are more elaborate than those of B and C territories, and they are also different from them in subject-matter. These facts may be illustrated by a brief description of the Syrian mandate.¹ Because the mandate for Syria deals with a more highly developed population than is to be found in the B and C regions, it places more stress upon local autonomy. The mandatory is instructed to enact measures for the "progressive development of Syria and the Lebanon as independent states." The organic law of the country must have the agreement of the native authorities.² The foreign relations of the territory are under the exclusive control of France, and France may maintain troops in

¹ For the mandate for Palestine see Appendix IV of this volume.

² In 1926 and 1927, native representative governments were established in Lebanon and Syria, respectively. The delay in providing the organic laws describing those governments was the cause of native protest and widespread criticism. See WRIGHT, Q., *op. cit.*, pp. 245-247.

Syria for purposes of defence. The mandatory is under an obligation to ensure freedom of conscience and worship, to encourage education, to enact a law protecting antiquities, to establish an adequate judicial system, and to "refrain from all interference in the administration of the councils of management (*Conseils de fabrique*) or in the management of religious communities and sacred shrines." The open door policy is defined in much the same manner as in the B mandates. France may adhere on behalf of Syria to general international conventions dealing with such matters as traffic in drugs, aerial navigation, railways, freedom of transit, and telegraphic communication.

In 1920 the British Government submitted to the Council the draft of a mandate for Iraq. In 1921, before any action had been taken, Great Britain notified the Council that on account of the desire of the Arabs in Iraq to establish a national government it was her intention to incorporate the principles of the mandate system in a treaty of alliance between herself and Iraq, rather than in such a mandate as had been presented the previous year.¹ The alliance was concluded on October 10, 1922; it was later supplemented by a protocol dated April 30, 1923, and by four subsidiary agreements signed on March 25, 1924.²

In accordance with the alliance, Great Britain "undertakes to provide the state of Iraq with such advice and assistance as may be required during the period of the present treaty, without prejudice to her national sovereignty." England is represented in the territory by a High Commissioner and a Consul-General, assisted by the necessary staff. It is impossible for the King of Iraq to appoint any person of foreign nationality to office without the concurrence of the British Government.

¹ *The Mandate System*, p. 13, published by the Information Section of the Secretariat, Geneva, 1927.

² *British and Foreign State Papers*, Vol. 119, pp. 389-428

The autonomy of the native state is made possible by provisions for the formulation of a local constitution, the diplomatic representation of the King of Iraq in London and in other capitols with the consent of England, and the agreement of Great Britain to use her good offices to secure the admission of Iraq into the League of Nations as soon as possible. Discriminations against the nationals of any state which is a member of the League of Nations in matters concerning taxation, commerce or navigation, the exercise of industries or professions, or in the treatment of merchant vessels or civil aircraft, are forbidden. The King of Iraq agrees to enact a law of antiquities ensuring equality of treatment to the nationals of all members of the League and to any other state designated by the British Government. Disputes over the interpretation of the alliance are to be settled by the Permanent Court of International Justice. English military support may be given "from time to time as agreed by the High Contracting Parties." Annual reports are made by Great Britain to the Mandates Commission, as in the case of other mandates.

By one of the special agreements, signed on March 25, 1924, a specification is given of the offices within the government of the territory which are to be filled by English appointees.¹ The other treaties, signed at the same time, deal with military, judicial, and financial matters.²

The Supervision of Mandatories.

While the Council is, in the first instance, entrusted with control over the mandate system, the Assembly is free to discuss any question concerning the mandates, and in practice has frequently done so. Resolutions have been adopted at the regular Assembly sessions with respect to the operation of the system. The Assembly's

¹ *Ibid.*, Vol. 119, p. 395.

² *Ibid.*, Vol. 119, pp. 410, 416, and 419.

activities have on occasions had a favorable effect, but they have often provoked a reaction within the Council against what has been regarded as an unwarranted assumption of authority.

At the First Assembly meeting in 1920 a resolution was adopted rebuking the Council for failing to publish the terms of the draft mandates before they had been adopted, and recommending that "future draft mandates should be published before they are decided on by the Council."¹ This action was prompted by the fact that during the session certain mandates arrived in draft form from the powers concerned, with no effort on the part of the Council to acquaint the Assembly with the contents. Many members of the Assembly felt that the Council should pursue a policy of greater publicity. At the same session the Assembly drafted other recommendations which were addressed to the Council.² Mr. Balfour, sensing the implication of these recommendations, voiced a warning lest the Assembly encroach upon the powers of the Council with regard to the control of the mandate system, in the following words:

Eventually behind the actual recommendations of the subcommittee there is the view that this Assembly is really the responsible body under the Covenant for dealing with these difficult questions of mandates. No such assertion is explicitly contained in the report, but I think the speeches, the formulated recommendations and the general spirit of most of those who have preceded me at this tribune, clearly show what is the view. I believe that that view is technically

¹ *Resolutions Adopted by the Assembly during Its First Session*, Nov. 15 to Dec. 18, 1920, p. 32.

² They included the following (1) that members of the Mandates Commission should not be dismissed without the consent of the Assembly, (2) that the Mandates Commission contain at least one woman, (3) that in A mandates the mandatories should not be allowed to use their power either to increase their military strength or for the purpose of exploiting natural resources, and (4) that organic laws should be adopted in A mandates as soon as possible.

erroneous. Let us be careful, therefore, not to run into what is perhaps the greatest of all internal dangers of our League organization, namely a conflict between the two organs by which the will of the Members of the League is to be carried out.

The Council's control over the mandatories is more extensive than that exercised by the Assembly. The Council was active in fixing the terms of the mandates. Whether it may dismiss a mandatory or appoint a new one in the event of a vacancy are matters of controversy.¹ The most effective means of control in the hands of the Council is to review the findings of the Mandates Commission and to make recommendations to the mandatory states. The Assembly is not authorized to submit recommendations to the mandatories.

Assisting the Council is a Mandates Commission, which is made necessary by Paragraph 9 of Article 22 of the Covenant. It is an advisory body with no power of its own to render decisions or to make recommendations directly to the mandatories. At its meeting on December 1, 1920, the Council determined the composition of the Commission.² It contains nine members appointed by the Council, of whom at least five must be elected from non-mandatory states. The appointees may not hold civil or military office of a national character and they are not to be regarded as representatives of the states from which they come. The commission has held at least one session a year, but since 1923 has met twice annually, except in 1926, when there were three meetings.

The Mandates Commission is aided in its activities by that branch of the Secretariat of the League known as the Mandates Section. The duties of the latter organization are: (a) to prepare the work of the Council with reference

¹ WRIGHT, Q, *op cit*, pp. 438-439.

² *Official Journal*, p. 87, November-December, 1920.

to mandates, (b) to correspond with the mandatory states, (c) to assist in the preparation of the agenda and furnish a secretarial staff for the meetings of the commission, and (d) to collect information bearing upon the mandate system and the problems with which it deals.

The duties of the Mandates Commission are described in a general manner by its constitution, approved by the Council on November 29, 1920.¹ Each mandatory power sends its annual report to the commission, which examines the document in the presence of a representative of the mandatory. The results of the examination are submitted to the Council. The commission is expected further, in accordance with Article 22 of the Covenant, to "advise the Council on all matters relating to the observance of the mandates."

The precise powers of the Mandates Commission have been the subject of dispute in several connections.² In the first place, there has been some controversy as to whether the organ, in addition to giving advice on the observance of the mandates, may also recommend alterations in the texts of the mandates. The question was discussed at the first session of the commission. The opinion was expressed by M. Orts of Belgium that the terms of the mandates were to be determined by governments and that the commission possessed no authority with regard to them. M. Rappard of Switzerland took issue on the question, asserting that "... if, during the process of examining the reports, certain clauses in the mandates should appear liable to interpretations differing from, or contrary to, Article 22, the Council could not take exception to questions or opinions with regard to this matter presented by the commission in a purely advisory capacity, for the Council would doubtless desire that the commission should be its watchful

¹ *Official Journal*, p. 87, November-December, 1920.

² WRIGHT, Q., *op. cit.*, p. 147.

counsellor.”¹ In practice, recommendations for alterations in the texts of the mandates have been made.

A second question relating to the powers of the Mandates Commission is whether that agency may examine the entire administration of the mandatories or only those matters which are taken up in the mandates.² At the Council meeting of December 12, 1923, M. Hanotaux of France voiced an objection to the recommendations of the Mandates Commission for a modification of the boundary between French and British mandated areas in West Africa, for loans made to mandated communities, and for the application of special conventions to them. It was his belief that the commission had no authority to submit recommendations relating to such matters. The issue was discussed again at the fortieth session of the Council in 1926. Efforts have been made within the Mandates Commission to obtain a ruling on the question of the competence of the organ, but thus far it has not been done.

The Methods of the Mandates Commission.

The procedure of the Mandates Commission is prescribed only in general terms by its constitution; further details are provided by the agency itself.³ Under its constitution the annual reports are considered in the presence of the duly authorized representatives of the mandatories, who are allowed to “participate with absolute freedom in the discussion.” When questions relating to labor are taken up, the International Labor Organization is entitled to send an expert, who may act in an advisory capacity. Experts on other questions may be requested to be present to advise the commission.

The reports are considered separately by the Mandates Commission at its meetings, and matters of general

¹ *First Session of the Permanent Mandates Commission*, p. 11.

² WRIGHT, Q, *op cit.*, p. 149.

³ *Official Journal*, November-December, 1920, p. 87.

concern are also discussed. Several days may be given to the annual report of a mandatory.¹ One plenary meeting must be held at a session, either before or after the reports have been taken up, at which the representatives of all of the mandatories are present, for the purpose of considering "all the reports as a whole and any general conclusions to be drawn from them." After the termination of a session the Mandates Commission forwards the reports of the mandatories to the Council, together with a report of its own in which it has placed its observations regarding each mandated area and whatever recommendations it may wish to make. If the representative of the mandatory before the organ so desires, the commission must annex to its own observations those of the representative. The practice has been followed of sending the Council a copy of the minutes of the session with relevant material appended.

The commission has formulated questionnaires for the purpose of facilitating the preparation by the mandatories of their annual reports. These questionnaires have been addressed only to the states in charge of B and C areas.² While there is no obligation to answer the long list of questions included, the mandatories have, as a rule, given careful attention to them. The terms of the A mandates require that the mandatories submit maps and the texts of laws enacted, and the commission has often requested such documents from the nations in charge of B and C mandates.

The Mandates Commission obtains its information with regard to the business at hand from a number of

¹ At the sixteenth session of the commission, in November, 1929, the time given to the consideration of annual reports was divided as follows: Iraq, two and one-half days; Islands under Japanese mandate, one-half day; Ruanda-Urundi, two days; Cameroons (British), one day; Togoland (British), one day; Palestine, one day; Samoa, one-half day. See *Minutes of the Sixteenth Session*, 1929, table of contents

² *B and C Mandates, List of Questions*, A. 14, 1926, VI, Geneva, June 25, 1926.

sources.¹ In addition to the regular annual reports, the mandatories occasionally draw up special reports at the request of the commission. This was done by France when the commission was conducting a special investigation of Syrian affairs in 1925-26. The representatives of the mandatories who appear before the agency are an important source of information. The commission has urged that chief administrators or officials of high rank from the mandated communities be delegated in this capacity so that the statements which are made will be as authoritative as possible. A third means of obtaining knowledge with respect to mandatory administration is afforded by petitions. By a resolution of the Council, adopted on January 31, 1923, a procedure was established for the dispatch and treatment of such petitions, with the object of discouraging trivial appeals and giving prompt attention to those of a genuinely serious character.² All petitions emanating from the populations concerned must be forwarded to the commission through the mandatory in charge. They may be accompanied by the comments of the latter. Petitions originating among outsiders go directly to the chairman of the commission, who determines whether they are, in each case, of sufficient importance to be communicated to the mandatory power concerned with the request for an explanation. When the Mandates Commission convenes, it decides which of the petitions, together with the comments that have been made regarding them, warrant delivery to the Council and circulation among members of the League. Finally, information on the work of the mandatories is made available by the investigations of the Secretariat and by the efforts of the permanent committees and technical organizations of the League. For instance, the Health Organization by

¹ The sources of information upon which the commission relies is ably discussed by WRIGHT, Q, *op cit*, pp. 159-189.

² *Official Journal*, pp. 211, 298, March, 1923. .

its work in different parts of the world will frequently possess data relating to the policies and methods of mandatories in that field.

The Mandate System in Operation.

There is no simple standard of achievement by which the mandatory administration may be appraised. Undoubtedly the welfare of the native populations should be regarded as the foremost aim of the mandate system, but the extent to which the natives have benefited is difficult to determine from the facts that are available. The reports of the Mandates Commission to the Council contain both favorable and unfavorable comments. In the report of November, 1929, the commission stated with reference to the Cameroons under British mandate, that it "noted with satisfaction the various new measures taken by the mandatory power against the increase of the liquor traffic"; but in another place the commission found that subsidies for educational purposes had not been adequate.¹ Furthermore, the handicaps under which the Mandates Commission labors in its endeavor to obtain information make it necessary to regard its findings as incomplete.

From the facts at hand, which point to the conclusion that the mandate system has accomplished much of a constructive nature, several may be mentioned in order to illustrate the type of progress which has been made. In 1923-24, the expenditures of the Tanganyika Government for education totaled £11,024, that for medical work £91,340, and for agriculture £21,869; in 1926-27 expenditures for those purposes were £58,897, £190,616, and £12,239, respectively.² Laboring conditions within the same territory have been the subject of regulation, although it is admitted that the existing situation is not

¹ *Minutes of the Sixteenth Session*, Mandates Commission, p. 206

² BUELL, R. L., *The Native Problem in Africa*, Vol. I, p. 483, New York, 1928.

entirely satisfactory.¹ The report of a special labor commissioner for Tanganyika (1926) contained the following statement with regard to one particular aspect of the labor problem:

The condition of the accommodation for labor on most estates leaves much to be desired . . . A decided improvement is nevertheless beginning to show itself, and many estates are making praiseworthy efforts to introduce better accommodation; unfortunately, the standard was in the past so low, that managers in very many cases quite fail to realize their shortcomings.

Health expenditures decreased twenty per cent in Iraq from 1921 to 1926, but in the African mandated regions they were increased over one hundred per cent during that period, except in Southwest Africa.² In the African mandated areas a larger percentage was spent for health purposes in 1926, as a rule, than in the African colonies of the mandates.³ The foreign trade of the mandated regions has been increased in many instances under the existing régimes.⁴ While these facts alone do not prove the soundness of the mandate system, they are indicative of attempts which have been made to raise the standards in these areas.

The control of the League of Nations over mandatory administrations has been put to the test on several occasions. By the combined methods of hearings, recommendations, and publicity, the League has been able to assert itself with some effectiveness, in spite of its inability to coerce. The correction of the Ruanda-Urundi frontier between the mandates of Belgium and Great Britain in the territory formerly known as German

¹ *Ibid.*, Vol. I, p. 498.

² WRIGHT, Q, *op. cit.*, p. 553.

³ *Idem.* France spent eleven per cent of her budget for health in the Cameroons and Togoland, and only four per cent in West Africa and ten per cent in Equatorial Africa; Great Britain spent nine per cent in Tanganyika and Cameroons, thirteen per cent in Togoland, in Uganda eleven per cent, Kenya, eight per cent, and Zanzibar nine per cent.

⁴ *Ibid.*, pp. 569-571.

East Africa is illustrative of this fact.¹ In July, 1922, the Council had defined the boundary in accordance with the Orts-Milner agreement of 1919, which would give Great Britain the opportunity to establish an uninterrupted railway line from the north of Africa to the south. It was brought to the attention of the Mandates Commission at its second session that the boundary divided a tribal area, causing economic difficulties to its members and embarrassment to its king. The Mandates Commission, in September, 1922, notified the Council, which in turn made recommendations to Belgium and Great Britain, with the result that those two governments negotiated a new treaty providing a more satisfactory frontier.

The Bondelzwarts rebellion in 1922 provided a more critical situation with which the mandates machinery of the League was obliged to deal. On this occasion the administrator in charge of Southwest Africa, acting for the Union of South Africa as mandatory, had imposed a dog tax, which the Bondelzwarts tribe considered to be unreasonably high. A rebellion broke out, but was successfully quelled by South Africa. When the affair was brought to the attention of the Assembly of the League, that body asked the Mandates Commission to investigate. The commission devoted a large part of its third session during the summer of 1923 to the situation in Southwest Africa. Its report was extremely critical of the administration of the territory by the Union of South Africa, but the desired results were accomplished when, a few months later, the obnoxious laws were modified.²

The internal disorders of Palestine have furnished one of the most perplexing problems in connection with the operation of the mandate system which has engaged

¹ *The Mandates System*, pp. 32-33, Geneva, 1927.

² *Official Journal*, p. 1396, November, 1923. The report of the Mandates Commission to the Council is given here

the attention of the League of Nations. The British mandate for the area contains clauses which are singularly difficult to put into operation, embodying the substance of the Balfour declaration of 1917 to the effect that a national home for the Jewish people should be established at Palestine.¹ On the one hand, Great Britain is responsible for the development of such administrative, economic, and political conditions as will secure the development of a Jewish national home; on the other hand, she is obliged to guarantee the rights of the entire population. It is also the duty of the mandatory to safeguard the holy places and religious buildings, and to maintain free access to shrines.

The terms of the mandate are aptly fitted to engender an attitude of mutual suspicion among the Jews and Moslems who inhabit Palestine. There have been four serious outbreaks among these conflicting elements of the population, the first three of which occurred in 1920 and 1921.² The most alarming disturbances occurred during the latter part of 1929, at which time several hundreds of persons were killed and wounded.

The Mandates Commission has received a host of petitions from Palestine indicating further the discontent. The main complaints lodged against the administration have been concerning the policies of the mandatory with regard to agricultural development, taxation, education, and public health. In a communication from the British Government, dated November 18, 1929, it was proposed that a commission be appointed to determine the rights of the Jews and Moslems to the Wailing Wall, which was the ostensible cause of the 1929 dis-

¹ For the text of the mandate see the *Official Journal*, p. 1007, August, 1922; also Appendix IV of this volume.

² A good discussion of the entire situation is given by STOYANOVSKY, J., *The Mandate for Palestine*, New York, 1928. For a briefer discussion see MACCALLUM, E. P., "The Palestine Conflict," *Foreign Policy Information Service*, Vol. V, No. 16.

order.¹ On January 14, 1930 the Council decided that a commission of three non-British members should be selected by the British Government with the approval of the Council.² During May, 1930, the names of the commissioners were submitted to the Council and approved, and in July, 1930, the Wailing Wall Commission opened its official hearings in Jerusalem.³

The Mandates Commission held an extraordinary session from June 3, 1930, to June 21, for the purpose of examining the Palestine incident of 1929.⁴ Great Britain was represented by Mr. T. Drummond Shiels, Under-Secretary of State for the Colonies, Mr. Luke, Secretary-General of the Palestine High Commission, and Messrs. Lloyd and Clauson of the British Colonial Office. It was found by the commission that Great Britain was in some measure at fault for the disorder, particularly with respect to the inadequacy of the local police and the small number of British troops in Palestine.

The activities of the League of Nations with regard to the mandate for Palestine are of unusual interest on account of the use of a special investigating committee to supplement the system of reports and recommendations upon which the League ordinarily relies for its control over mandatories. It is doubtful, however, whether such a procedure would have been adopted, had not the proposal for a committee come from the mandatory state.

The French mandate in Syria has met with a great deal of local opposition under the leadership of several Druse chieftains. In 1925 an open revolt occurred, which led to the bombardment of the City of Damascus by the French. The Syrians showered the Mandates

¹ *Minutes of the Sixteenth Session*, Mandates Commission, p. 202.

² *Official Journal*, p. 92, February, 1930.

³ *Document C* 294, 1930, VI.

⁴ *The Monthly Summary of the League of Nations*, Vol. X, No. 6, pp. 120-121.

Commission, which was in session at the time Damascus was being shelled, with petitions. The commission held a special session early in 1926 to deal with the Syrian affair, and formulated a report to the Council which contained certain criticisms of the French policies.¹ The commission based its attitude upon the French annual report, the grievances voiced by various petitioners, and the statements of M. de Caix, special representative of the mandatory. The criticisms made by the commission were somewhat mitigated by an admission of the difficulties inherent in the administration of Syria, and by an assertion that France had made many sacrifices in behalf of the mandate. The report of the Mandates Commission to the Council, dated September 8, 1927, stated that internal conditions in Syria were peaceful and that a new organic law was about to be promulgated.² The extent to which the improved conditions have been brought about by the League of Nations cannot be definitely determined, but that the work of the League was a contributing factor is beyond question.

Among the interests of a general character that have been taken up recently by the Mandates Commission is the problem of controlling the liquor traffic in B mandates.³ On December 6, 1927, the Council passed a resolution asking the Mandates Commission, in collaboration with the mandatory powers, to consider the "causes of the increased importation of spirituous liquors into those territories under B mandate where such an increase is taking place, and to the steps to remedy this situation." In a report to the Council, dated November 13, 1928, the commission gave as the causes of the increased importation the growing wealth of the natives

¹ *Minutes of the Eighth Session*, Mandates Commission.

² *Official Journal*, p 1256, October, 1927.

³ *Permanent Mandates Commission*, Report to the Council of the League of Nations on the work of the fourteenth session of the commission, Nov. 13, 1928, C. 579, 1928, VI, pp. 1-2.

and the opening up of the country by railways and motor transport. They recommended that the mandatories increase the duties on imported liquors and also the license fees for the sale of liquors.

The Extent of the League's Control.

From the instances that have been related it is evident that the League has been actively endeavoring to supervise and cooperate with the mandatory states in the operation of the mandate system. While these efforts are commendable, the control which the League exerts over the mandatories is open to criticism on several grounds. In the first place, the annual reports which are submitted by the mandatories have not always presented a fair picture of conditions, and on several occasions the Mandates Commission has indicated its dissatisfaction therewith. The commission found that the annual report for 1928-29, submitted by New Zealand as mandatory for Western Samoa, expressed a very different estimate of the local administration from that presented in a special investigation which was made under the authorization of the Government of New Zealand.¹ It found that, whereas the former was written in a general spirit of optimism, the latter was extremely skeptical of the whole administration of the territory and particularly of its finances. In the report of the Mandates Commission to the Council, made late in 1929, special mention was made of the discrepancy between the two documents and the hope was expressed that "the annual reports of the mandatory power will, in future, be such as to allow it to form a true opinion of the whole administration, and so to avoid the painful surprise which it experienced this year in considering the report of the administrative experts."² It has been observed that in the Annex to the French reports on

¹ *Minutes of the Sixteenth Session*, Mandates Commission, p. 207.

² *Ibid*, p. 208.

Togoland and the Cameroons adverse comments by the natives in the local council of notables were omitted from the minutes of that body.¹

The frequent requests that are made by the Mandates Commission for information which has not been given in the reports is further evidence of the incomplete accounts which are rendered by the mandatories. As mandatory for the Cameroons, Great Britain was asked, in 1929, for further data with respect to five of the nine subjects commented upon in the commission's report to the Council.²

At the time when the Bondelzwarts affair was before the attention of the League, the Mandates Commission asked the South African Government to investigate the situation and to submit a special report in order to assist the commission in its treatment of the subject. The Government of South Africa had not placed the special report in the hands of the commission as it had promised when that body met in August, 1923. The Mandates Commission acknowledged its ignorance of the opinions of the Government of South Africa "on the events themselves, on the action taken by the administrator of the territory to deal with the situation, on the punitive measures which may have been thought necessary, and on such measures as may be required in order to establish satisfactory conditions in the districts in which the events took place."³ In spite of the lack of the information desired, the commission proceeded with its hearings.

The control of the League of Nations over the mandatory states is also limited by the nature of the methods of the Mandates Commission. The commission has no authority to dispatch envoys to a mandated area for the

¹ BUELL, R. L., *The Native Problem in Africa*, Vol. II, pp. 372-373, 410-411.

² *Minutes of the Seventeenth Session*, Mandates Commission, pp. 205-206.

³ *Official Journal*, p. 1396, November, 1923.

purpose of investigating the work of the mandatory. At the seventh session of the organ a petition from Palestine was considered and rejected on the ground that "the commission doubts whether it can make any adequate recommendation on so complex a subject on the sole basis of written documents." An invitation of the petitioners to the members of the commission to visit Palestine and examine complaints on the spot was refused.¹ In the discussion of the expediency of visiting an area it was brought out that the question was one relating closely to the fundamental principles of the mandate system. Such extension of the powers of the commission would be impolitic unless the mandatories should assume a favorable attitude. The most valid objection which the mandatory states could present is that their prestige might be lowered within mandated areas by the presence of an external authority checking their actions.

The methods of the Mandates Commission are subject to further criticism on the ground that inadequate representation in the hearings of the body is given to the points of view of the natives. It is only through written petitions that the native population may approach the commission. In such a hearing as that given to the French mandate in Syria, the mandatory may be represented, but there is no spokesman for the mandated area. At the ninth session of the Mandates Commission it was agreed that in certain cases it would be necessary to allow petitioners to appear in person, if a fair opinion of the merits of the petition were to be formulated, but no recommendation to that effect was made to the Council.² In the report of the work of the Mandates Commission during its ninth session the following statement was made:³

¹ This is discussed by STOYANOVSKY, J., *The Mandate for Palestine*, pp 344-349

² *Ibid.*, p. 347.

³ *Official Journal*, p. 1232, October, 1926.

It appears that the commission usually secures all the information it could reasonably desire either in the petitions themselves or from the mandatory power. Members of the commission have, however, sometimes found it impossible to form a definite opinion on the question whether the petition is well founded or not. In order to obtain additional information the commission has therefore discussed the possibility and advisability of inviting petitioners to make a statement before the commission.

There are other evidences of incomplete control of the mandatories on the part of the League. The League cannot issue orders to correct abuses or injunctions to restrain action. Since the mandates were allotted by the Allied Supreme Council, it is questionable as to whether the League is able to terminate a mandate or to transfer it from one nation to another. There is no power to summon witnesses to testify before the Mandates Commission with regard to a matter which is under discussion. Proposals to strengthen the League at these points would be expected to meet with much opposition.

The inadequate control of the League over mandatory powers reflects the chief weakness of the mandate system as a form of international administration. While the government of the backward areas is carried on in the name of the League, there has not been sufficient relinquishment of national control to perfect the League's responsibility.

CHAPTER VI

BUREAUS WITH INFORMATIONAL AND MINISTERIAL FUNCTIONS

In addition to those public unions in which commissions have been assigned powers of control over matters of common interest, there is another type embodying administrative functions of a somewhat different nature, which center about the activities of permanent offices or bureaus. The supervisory commissions which have been placed in charge of a number of these bureaus perform duties of a different character from those of the commissions described in Chapter II. While the two are alike in that they involve powers of control, the former's authority is limited to the management of machinery within the union, whereas the latter are able to regulate external affairs and entities relating more directly to the interests of states and individuals. The secretariats of commissions with powers of control over affairs are intended only to provide secretarial services and do not ordinarily possess functions as extensive and numerous as those of bureaus.

While there are more unions known as "commissions" than there are "bureaus" operating in the field of international administration, the latter afford an unusually interesting subject of investigation because of their greater reliance upon an international civil service for the accomplishment of their main tasks. It is characteristic of bureaus that they are continuously in operation, that they are composed of officials who do not act in a representative capacity, that they are either unrelated to commissions or have only supervisory commissions over

them, and that their functions are mainly ministerial and informational.

Types of International Bureaus.

It is essential to distinguish between bureaus of public organizations, semi-public bureaus, and private bureaus. It is usually, though not invariably, true that public bureaus, like public commissions, are founded upon international conventions concluded among states. An exception to this rule may be mentioned in the case of the Pan-American Union, which until 1928 was established and maintained only on the basis of resolutions of the Pan-American conferences. At the Fifth Conference of the American States in 1923, a resolution stipulated that the succeeding meeting should put the organization into conventional form. In accordance with this resolution the Pan-American Conference at Havana in 1928 formulated a convention prescribing the constitution of the organization.¹

Semi-public bureaus are not founded upon international conventions, though in other respects they receive governmental support and cooperation. These agencies do not administer in the sense in which that term is used in this volume, for the reason that there is no official definition of their methods of operation. Nevertheless, acting under private agreements, many of them perform much the same type of work that is done by those public organs which have informational functions. For that reason, and also because semi-public agencies are occasionally changed to a public status, a brief reference may be made at this point to the methods of governmental cooperation with private interests.

In the first place, public initiative may undertake the creation of a bureau which remains partially or entirely

¹ *Report of the Delegates of the United States of America to the Sixth International Conference of American States*, pp. 231-239, Washington, 1928.

under private control. In 1921 the International Association for the Protection of Child Welfare, whose purpose is "to facilitate the study of questions relating to children and to support progress by legislation and the conclusion of treaties," was organized by the official delegates of interested states and a permanent office was established at Brussels.¹ A more common method by which a government may participate in a semi-public bureau is to become a member, acting in which capacity, it sends delegates who have the same rights of debating and voting that other members possess, and it contributes financial aid in the maintenance of the organization. The International Association of the Congress on Roads, operating a bureau at Paris, has among its members thirty-eight states, an exceptionally large number.² A final point of contact which states maintain with a number of bureaus is to be found in the fact that the personnel of executive committees, designed to supervise the bureaus, includes state officials. The Committee of the International Association of the Congress on Railways contains seven officials of the Belgian state-owned railways.³ Where an arrangement of this nature is made, it is usually true that state participation has occurred in the foundation of the organization or that there are a number of states who are members.

The purpose of state assistance in the operations of unions of this character is to achieve a measure of international cooperation with reference to an activity which has not yet taken on sufficient importance to warrant complete official control and responsibility. It has already been intimated that in course of time a private organization may be replaced by one of a public nature. In 1908 a private institution known as the International Association of Refrigeration was created, which included

¹ *Handbook of International Organizations*, 1925, p. 64.

² *Ibid.*, p. 62.

³ *Idem.*

within its members a number of sovereign states.¹ It was replaced in 1920 by the formation of the International Institute of Refrigeration, a public union resting on the basis of an international convention.²

Private international bureaus involve the efforts of private societies and individuals without any form of official action.³ They are, therefore, entirely outside the scope of this volume. Their only relation to the subject of international administration is the intangible one that, by expanding the area of international interests, they increase the facility of official cooperation.

The Functions of Public Bureaus.

It has already been intimated that public bureaus are endowed with a different type of functions from those which are given to commissions. The latter are usually allowed powers of control, but the former have duties of a somewhat more perfunctory nature to perform involving control only of an informal character, in so far as states or individuals are concerned.

The function most commonly possessed by bureaus is that of obtaining and circulating information for unions of states established, in part, for that purpose. It has been estimated that approximately thirty per cent of the information received by the United States Department of Agriculture is supplied by the International Institute of Agriculture.⁴ The regular publications of the institute embrace the following:

The International Crop Report.

The International Review.

The International Review of Agricultural Economics.

The International Yearbook of Agricultural Legislation.

The International Yearbook of Statistics.

¹ *La vie internationale*, Vol. II, p. 2195, 1912.

² *Handbook of International Organizations*, p. 139, 1925

³ *The Handbook of International Organizations*, 1929, contains information relating to approximately four hundred such agencies

⁴ LAY, T. H., *The Foreign Service of the United States*, p. 178, New York, 1925.

The institute also answers inquiries and makes special studies of such subjects as the expenditures of public bodies in behalf of agriculture, the organization of stock-breeding and veterinary services in different states, and agrarian reform. The Pan-American Union publications are also widely known and extensively used.

The influence of such information in the shaping of state policies cannot be measured. The utility of the information furnished by the International Institute of Agriculture in shaping national agricultural policies is, however, apparent. The publications of the Bureau for the Publication of Customs Duties make available information, which may, in practice, have influence upon national legislation or upon the actions of individuals.¹

A second method by which international bureaus may affect state policy is through its advice given on request. Reference has been made in Chapter I to the advisory activities of the Bureau of the Universal Postal Union.² A type of question commonly submitted by states to the organ is whether proposed national rules would be in contravention of the rules of the union. The convention

¹ Professor P. B. Potter has made the following observations on the practical utility of informational activities.

"International discord and waste frequently arise from no other cause than a lack of data upon all phases of a question upon which different nations are each acting from their detached positions in the international community. With adequate data, the possibility of obtaining harmonious action by all interested nations is considerably greater, whether that result is left to chance or to informal and wholly voluntary cooperation. On the other hand, the states are not always willing to interchange such data directly; nor are they pleased to have requests for such data made, nor to have diplomatic and consular officers and *attachés* active in collecting such information on their own initiative." —*Introduction to the Study of International Organization*, pp. 174–175, New York, 1928.

² This function is exercised under Art. 23 of the main convention of the union which permits the bureau to give "at the request of the parties concerned an advisory opinion on questions in dispute." See *Treaty Series* (League of Nations), p. 43.

of the International Institute of Agriculture goes still further and permits the permanent office on its own initiative to "submit to the approval of the governments, if there is occasion for it, measures for the protection of the common interests of farmers . . ." ¹ On the other hand, the Bureau for the Protection of Industrial Property does not possess such functions. ²

It may be that in other ways bureaus may influence state action. If a state violates the convention, the bureau might bring the matter to the attention of other members, as any other state within the union might do. There are no positive powers of control, however, affecting the free exercise of sovereignty by states. While bureaus are lacking in such authority, the conventions and statutes creating them generally impose definite limitations upon the freedom of action of signatory states.

The duties of bureaus include several of a ministerial character. Some of them act as registries. In the case of the Bureau of the Permanent Court of Arbitration and those bureaus which receive national reports and copies of state documents, the intention is largely that of preserving useful data in a place where it is available. The registry of trade marks with the Bureau for the Protection of Industrial Property, however, produces the result that the registrant's rights with respect to his property are internationally protected.

In addition to the above duties which most commonly belong to international bureaus there are others of a miscellaneous nature which are possessed less frequently. The Bureau of the Universal Postal Union has the unusual duty of acting "as a clearing-house for the settlement of accounts of every description relative to the

¹ See Appendix II of this volume.

² It is believed, however, that the bureau might be given such functions in so far as its constitutional basis is concerned. See LADAS, S. P., *The International Protection of Industrial Property*, p. 119, Cambridge, 1930.

international postal service between the administrations which claim its assistance."¹ The Bureau of the Pan-American Union for the Protection of Trade Marks is instructed to "investigate cases where trade marks have failed to obtain the recognition of registration provided by this convention."² In some instances bureaus prepare for conferences held within the respective unions.³

The Organization of Public Unions with Bureaus.

Public unions in which the bureaus are the chief administrative agencies usually comprehend other machinery, whereas those emphasizing the commission have little or no auxiliary organization except, perhaps, inconspicuous secretariats or conferences which meet without the benefit of regular conventional bases and without any fixed or even assumed periodicity. A deliberative body, known variously as the "conference," "congress," or "general assembly," is frequently mentioned in the convention creating an international bureau. Where no specific mention is made in the convention of such an organ, as in the case of the Union of Central American Republics formed in 1907, it is understood that conferences may occur whenever desirable.⁴ There is a disadvantage in the latter arrangement which results from the fact that each conference which is held necessitates special action in regard to such matters as composition and methods of procedure. This disadvantage prevails also in unions whose conference is merely mentioned in the convention without providing definitely for its structure or methods of operation.⁵ The conven-

¹ *Idem.*

² *Treaties, Conventions, etc*, Vol III, p 2939.

³ Illustrated by the International Telegraphic Bureau.

⁴ *Treaties, Conventions, etc*, Vol II, p. 2411.

⁵ The convention of 1925 describing the Pan-American Sanitary Bureau merely made mention of conferences, which might hereafter define "additional administrative functions and duties" of the bureau; no description of the conferences was given whatever. See *Treaty Series* (United States), No. 714.

tions which created the International Institute of Agriculture and the Universal Postal Union illustrate the more detailed manner in which the deliberative body has sometimes been dealt with.¹ Stipulations are to be found within these conventions with regard to the frequency of meetings, the distribution of representation, voting-power, functions, and officers.

It is generally within the scope of action of the conference to propose alterations either in the convention, which deals with the organization of the union and the basic principles of its operation, or in the *règlement*, which contains the more detailed rules concerning the administrative activities to be performed. When the latter is the subject of discussion the delegates are often specialists rather than diplomats. An example of the part which the conference is expected to play may be seen from the following provision taken from the International Wireless Convention of 1906:

Conferences of plenipotentiaries or simply administrative conferences, according as the convention or the regulations are affected, shall take place from time to time; each conference shall fix the time and place of the next meeting.

Such conferences shall be composed of delegates of the governments of the contracting countries

In the deliberations each country shall have but one vote.

If a government adheres to the convention for its colonies, possessions or protectorates, subsequent conferences may decide that such colonies, possessions or protectorates, or a part thereof, shall be considered as forming a country as regards the preceding paragraph.²

Where the conference of a union is treated in the convention a statement may be made regarding the frequency with which it shall convene. The conference of the Bureau of Weights and Measures, for example, meets "upon summons by the international committee,

¹ For the convention of the International Institute of Agriculture, see *Treaties, Conventions, etc.*, Vol. II, p. 2141; and for the convention of the Universal Postal Union see *Treaty Series* (League of Nations), No. 1002.

² *Treaties, Conventions, etc.*, Vol. III, p. 2892.

at least once every six years.”¹ The convention of 1928 relative to the organization of the Pan-American Union stipulates as follows in regard to the meetings of the conference:

Article 2.—The conferences shall meet at periodic intervals. The Governing Board shall determine the date on which they shall meet, provided that in no case shall a longer period than five years elapse between conferences, except in case of *force majeure*.²

The Convention for the Protection of Industrial Property, as amended in 1911, provides merely for “periodic” conferences.³

In fact, regardless of the stipulations of the conventions with reference to the frequency of conference meetings, they generally occur after intervals of from five to ten years, according to the needs which develop in the various organizations. The General Assembly of the International Institute of Agriculture, which is expected to convene periodically by the convention of 1905, held its eighth session in 1926 at Rome.⁴ In 1926 the second conference of the International Hydrographic Bureau, created in 1919, took place.⁵ The conference of the Telegraphic Union during its existence of a little more than sixty years has had twelve meetings.⁶

The organization of the Universal Postal Union is unique in that provision is made for both a “congress” to revise the convention and a “conference” for the consideration of purely administrative questions. The former is expected to be convened at the initiative

¹ *Ibid*, Vol. III, p. 3089. Text of the convention, as amended in 1921, is given.

² *Report of the Delegates of the United States of America to the Sixth International Conference of American States*, p. 232, Washington, 1928.

³ *Treaties, Conventions, etc*, Vol III, p. 2953.

⁴ *Quarterly Bulletin of Information on the Work of International Organizations*, No 16, p. 585, 1926.

⁵ *Ibid*, No 18, p. 659, 1927.

⁶ The twelfth meeting occurred at Brussels in 1928. See *ibid.*, No. 1, Vol II, p. 21, 1929

of the state within which it shall occur, as determined by the preceding congress, but extraordinary sessions may be called at the demand of two-thirds of the member-states.¹ Conferences are brought into session by the same procedure which is employed in the case of extraordinary congresses. In practice the congress has been found much more practicable than the conference and has more frequently been used.

The deliberative bodies of public international unions have been composed and have operated along lines which may be regarded as somewhat unusual for international conferences. Most important has been the method of allotting membership and voting-power. Even where nominal adherence is made to the theory that each state shall have one vote, actual inequality may exist on account of the allowance of colonial participation. Within the Universal Postal Union colonial representation results in the following distribution of votes among the larger empires: the British Empire, 7; France, 4; Japan, 3; Holland, 3; Portugal, 3; the United States, 3; Italy, 2.² In several organizations there is a more daring violation of the idea of state equality involving the division of states into classes with the allocation of a specified number of votes to the individual members of each class. The states belonging to the International Institute of Agriculture, for instance, are divided into five classes, with an assignment of from one to five votes to member-states according to their respective classifications.³

It is also provided in certain cases that the payment of the expenses of the unions shall be borne unequally, particularly where the voting-power of states is not equal. In the International Institute of Agriculture

¹ *Treaty Series* (League of Nations), No. 1002.

² *Treaty Series* (League of Nations), Vol. 40, pp. 36-37, and pp. 78-86.

³ *Treaties, Conventions, etc.*, Vol. II, p. 2141. A similar arrangement is employed under the International Sanitary Convention of 1907 with regard to the Bureau of Public Hygiene. See *Ibid.*, Vol. II, p. 2214.

the classification which is used for voting purposes is also employed in the distribution of expenses. In the Universal Postal Union nations are placed in seven classes for purposes of financial administration, but there is no apparent correlation between that arrangement and the unequal distribution of votes through the allowance of colonial representation.¹

It is characteristic of the conferences of certain unions that their work may be facilitated by the operations of other organs. Proposals of subjects for conference discussion may be made to the Bureau of the Universal Postal Union between meetings.² The Secretary-General of the Committee of the International Institute of Agriculture is, *ex-officio*, Secretary-General of the General Assembly.³ The Pan-American Union prepares the program for the International American Conferences and the Governing Board fixes the dates on which they shall convene.⁴ It would seem that an extension of helpful activities of this nature by the organs of the various unions in behalf of conferences might be profitably undertaken.

A mechanism which has been evolved to facilitate the operations of international bureaus is the supervisory commission. Like the commissions endowed with powers of control over designated affairs, it is generally selected in such a manner that some or all of the participating states shall be represented. The International Committee related to the International Office of Public Health is composed of "technical representatives designated by the participating states in the proportion of one representative for each state."⁵ By the convention dealing with the Bureau of Weights

¹ *Treaty Series* (League of Nations), No. 1002.

² *Idem*.

³ *Treaties, Conventions, etc.*, Vol. II, p. 2141

⁴ *Report of the Delegates of the United States of America to the Sixth International Conference of American States*, p. 231.

⁵ *Treaties, Conventions, etc.*, Vol. II, p. 2214.

and Measures of the Metric Union, as revised in 1921, the committee includes eighteen persons selected from different member-states by the conference rather than by the governments themselves.¹ The personnel of this organ is renewable only to the extent of one-half its members at any one time, in order that persons acquainted with the methods and policies of the commission may always be in attendance. The selection of commissions is usually under the direct control of the states which are entitled to representation. In the case of the Governing Board of the Pan-American Union, the entire membership was formerly *ex-officio*, under a provision that the diplomatic representatives accredited at Washington by the Latin-American states should serve in that capacity. Under the convention of the union as drafted at the Sixth International Conference of American States in 1928 it is now possible for the American republics to send special delegates.²

The chief duty of such a commission or governing board is to supervise and direct the work of the bureau. In order to accomplish this purpose arrangements are variously made whereby the commission may control the personnel of the bureau, draw up its budget, and issue regulations with regard to its activities. The duties of the International Committee of the Bureau of Weights and Measures are given as follows in Article 10 of the convention, as revised in 1921:

The International Committee directs all the metrological works that the high contracting parties shall decide to have carried on jointly.

It is also charged with the duty of seeing to the conservation of the international prototypes and standards.

It may, lastly, institute the cooperation of specialists in questions of metrology and coordinate the results of their work.³

¹ *British and Foreign State Papers*, Vol. 116, p. 567.

² *Report of the Delegates of the United States of America to the Sixth International Conference of American States*, p. 232.

³ *Treaties, Conventions, etc.*, Vol. III, p. 3089.

The functions of the Committee of the International Institute of Agriculture are "to prepare its internal regulations, vote the budget of the institute within the limit of the funds placed at its disposal by the General Assembly, and appoint and remove the officials and employees of its office."¹ It is interesting to observe that these commissions which belong to the machinery of public international bureaus generally operate without the requirement of unanimity in the formation of decisions.

In instances where the bureaus are not supervised by commissions, it is customary to place them under the direction of the states in which they are located. The Bureau of the Union for the Publication of Customs Tariffs is appointed by the Ministry of Foreign Affairs of Belgium, which is also expected to "see that the institution is properly managed."² The annual reports of the organ are made, however, to all of the adhering governments. The actual authority inherent in the duty of supervision in such instances will be discussed in a later chapter.

Public Bureaus Now in Operation.

International bureaus have been established in large numbers during the period of the last seventy-five years. Historically, public unions emphasizing the commission antedated those in which the bureau is the more conspicuous agency. The Central Rhine Commission, the first permanent organ of its type, was created in 1804, while the first permanent bureau was the Telegraphic Bureau, set up in 1868. Six years after the Telegraphic Bureau was set up, a similar organ was established to deal with postal communication.³ The

¹ *Ibid.*, Vol. II, p. 2141.

² *Ibid.*, Vol. II, p. 1996.

³ In 1863 the first international postal conference occurred, but no permanent organization was formed until 1874.

field of international administration as represented by permanent agencies has since been so greatly expanded that in recent years there have come into existence large numbers of both bureaus and commissions, which have dealt with a wide variety of subjects.

In order to elucidate more readily the nature of the activities which are undertaken by international bureaus, it is proposed to submit herewith a list of those which are now existent, together with some pertinent facts in regard to each.¹ Secretariats serving representative commissions and councils are omitted.²

1. *International Telegraphic Bureau* (1868).—The bureau first operated under the title of "International Bureau of Telegraphic Administrations," but in 1908 its name was changed to "International Bureau of the Telegraphic Union." In 1906 it was given additional functions relative to wireless communication. Its main duty is to coordinate and publish information dealing with telegraphic and wireless communication and to prepare for the conferences of the union. There are seventy-four states which are members of the union; twenty-two private companies have declared their intention of conforming to the provisions of the convention and fifteen other companies actually adhere in practice, without official announcement. The twelfth conference of the union occurred in 1928 at Brussels, at which fifty-nine member-states were represented and eight non-members. A protocol supplementing the "International Service Regulations" was adopted. The

¹ The facts in regard to the bureaus presented were obtained, in the main, from the *Handbook of International Organizations*, 1929, the *Quarterly Bulletin of Information on the Work of International Organizations*, 1922—, *British and Foreign State Papers*, and *Treaties, Conventions, etc.*

² The Bureau of the Permanent Court of Arbitration, 1899, the Registrar of the Permanent Court of International Justice, 1921, and the Recording Secretary of the Central American Court, 1923, are also omitted from the list. They are, however, ministerial agencies serving the respective courts with which they are connected.

thirteenth conference took place in 1929. The seat of the bureau is at Berne, Switzerland.

2. *International Bureau of the Universal Postal Union* (1874).—Membership is composed of one hundred and eighty-six states, colonies, and territories, many of which are grouped together for voting purposes. The work of the bureau includes the publication and distribution of information, settling accounts among postal administrations within the union, the notification of modifications in the acts of the congress, and similar duties which may be assigned to it. For the proportionment of expenses the states of the union are divided as follows:

Number of administrations	Classification	Units of expense
16	I	25
2	II	20
16	III	15
7	IV	10
9	V	5
23	VI	3
10	VII	1

At the eighth congress at Stockholm in 1924 several revisions were made in the acts of the union. The ninth congress at London in 1929 made some alterations of a less important character. At a special meeting in 1927 on air postal service a group of rules relating to that subject was adopted. The seat of the bureau is at Berne, Switzerland.

3. *Bureau of Weights and Measures* (1875).—There are thirty-one members of the Metric Union. The duties of the bureau comprise the comparison and verification of new prototypes of the meter and kilogram, the custody of international prototypes, periodical comparisons of national standards with the international prototypes and with their test copies, the sealing and comparison of geodetic measuring bars, and the compari-

son of standards and scales of precision. The organization of the union includes a committee of eighteen and periodical conferences, in addition to the bureau. At a conference in 1927 attended by twenty-six states, the bureau was authorized to undertake a study of electric standards in pursuance of Article 7 of the 1921 convention. The seat of the union is at Paris, France.

4. *International Bureau for the Protection of Industrial Property* (1885).—There are thirty-seven members of the union. The purposes are to secure the protection of inventions and trade-marks. The bureau has informational duties and also serves under the convention of 1891, which has been accepted by twenty-one states, as a registry for trade-marks. The operations of the bureau are correlated with those of the Bureau of Literary and Artistic Property. The convention of the union was revised at The Hague in 1925. The members of the union are divided into six classes for the allotment of expenses. The headquarters of the bureau are at Berne, Switzerland.

5. *International Exchange Service* (1886).—Eight states signed the original convention of 1886, sixteen have since adhered, and many others cooperate by receiving and transmitting documents. The objects of the organization are to maintain a regular exchange of documents among states and to assist scientific and literary societies by the exchange of publications. A new convention was drawn up in 1924. The office of the institution is at Brussels, Belgium.

6. *International Bureau for the Protection of Literary and Artistic Property* (1888).—There are thirty-seven states in the union. The objective is to afford much the same protection to authors and artists that is given to the owners of industrial property by the union dealing with the latter subject. The bureau cooperates with that of the Union for the Protection of Industrial Property. Member-states are divided into six classes

for the payment of expenses. The seat of the bureau is at Berne, Switzerland

7. *Pan-American Union* (1890).—The member-states include all of the twenty-one American republics. Until 1910 the bureau was known as the "International Bureau of American Republics," but at the conference at Buenos Aires of that date its name was changed to the "Pan-American Union." A Governing Board composed of delegates from each of the twenty-one republics supervises the work of the Pan-American Union. The deliberative organ for the union is a conference called from time to time to form conventions relating to subjects of common concern. There have been six of these conferences to date, the last one having occurred at Havana, Cuba, in 1928. The subject-matter that has come within the scope of action of these conferences embraces economic, social, commercial, educational, legal, agricultural, and political affairs. Recently increasing attention has been given to the codification of public and private international law and methods for the peaceful settlement of international disputes. Under the auspices of the union a special conference convened at Washington, D. C., late in 1928, to draft a convention dealing with arbitration and conciliation. The bureau itself, located at Washington, D. C., publishes a great deal of material relating to the interests of member-states. Its main publication is a monthly *Bulletin* which is printed in English, Spanish, and Portuguese. Until 1928 the organization of the union was provided by the resolutions of successive conferences, but in that year it was put upon a conventional basis.

8. *Bureau for the Publication of Customs Duties* (1890).—Fifty-two states make up the membership of the union supporting this bureau. The work of the bureau consists of the translation into five languages (German, English, Spanish, French, and Italian) of the customs tariffs of the states, as well as the modifications

that are made therein from time to time. There is an international committee to supervise the bureau. Member-states are divided into six classes for the payment of expenses. The seat of the bureau is at Brussels, Belgium.

9. *Central Office of the Union of Railway Freight Transportation* (1893).—There are twenty-five states in the union, all of which are European. The Central Office is under the supervision of the Federal Council of Switzerland. Its duties are chiefly as follows: to receive communications from the contracting states and from railway administrations and to transmit them to other states and administrations; to gather and publish information of all kinds relating to international freight service; to liquidate accounts due from one administration to another. Its chief publication is the *Bulletin des transports internationaux par chemin de fer*. Expenses incurred in the maintenance of the office are distributed unequally among states in the proportion of their railway mileage. At a conference in 1924 two new conventions relating to the union were drafted. The seat of the Central Office is at Berne, Switzerland.

10. *Pan-American Sanitary Bureau* (1902).—At the second Pan-American Conference of 1902, which met at Mexico City, a resolution concerning international sanitary police was passed, and it was further agreed that a sanitary bureau should be established at Washington, D. C. At the conference of the union in 1925 the bureau was given a conventional basis. The object of the organ is to act as a central coordinating agency for the various member republics of the Pan-American Union, and to collect and distribute information. Officials of the national health services may be designated as members *ex-officio* of the bureau.

11. *Office of the International Institute of Agriculture* (1905).—There are seventy-four members, including sovereign states and a number of dependencies. The

office is divided into five sections, dealing with (1) legislation and secretarial duties, (2) general statistics, (3) agricultural information, (4) economic and social studies, and (5) bibliography. Expenses are paid in unequal amounts by the member-states, which are divided into five classes for this purpose. The functions of the office embrace (1) the study and publication of statistical, technical, and economic information regarding farming, (2) the study and publication of information dealing with agricultural cooperation, insurance, and credit, (3) the distribution of data on the appearance of diseases of vegetables, and (4) the submission to the governments of measures designed to protect the common interests of farmers. Special conferences, as the International Wheat Conference of 1927 and the Fifth Seed-Testing Congress of 1928, are occasionally held under the auspices of the organization. A library connected with the institute, donated by the Carnegie Endowment for International Peace, contains approximately 180,000 volumes. The headquarters of the institute are at Rome, Italy.

12. *The International Office of Public Health* (1907).—On January 1, 1928, there were fifty states participating in the organization. It is the duty of the office to collect and distribute among member-states facts and documents dealing with public health, with particular attention to contagious diseases, such as cholera and yellow fever, and to measures that may be taken to combat them. The participating states are arranged in five classes for the payment of expenses. The office acts in an advisory capacity to the special health organization of the League of Nations. The seat of the office is at Paris, France.

13. *Bureau of the Radiotelegraphic Union* (identical with the Telegraphic Bureau).—In 1906 a convention was drawn up at Berlin dealing with wireless communication. By that document the Bureau of the International Telegraphic Union was given certain duties

relating to the use of wireless. Consequently, there is the peculiar arrangement that one bureau is serving two unions by the performance of the identical function of publishing information of a useful nature. The membership of the two unions is not the same, the telegraphic union including seventy-four states while the wireless organization contains a group of seventy-eight. In 1927 a radiotelegraphic conference convened at Washington with the result that a new convention was drafted embodying higher standards than those which had been incorporated in either the 1906 or the 1912 convention. The 1927 document, which went into operation on January 1, 1929, is accompanied by two sets of regulations, as follows: (1) general regulations to carry the convention into effect, and (2) supplementary regulations dealing with rates, procedure in radiotelephony, and the relation between the radio convention and the telegraph convention.

14. *Bureau of Commercial Statistics* (1913).—The union to which this bureau belongs comprises twenty-six states. The object of the union is the establishment of a common nomenclature relating to statistics of imports and exports, having reference to both weight and value. To attain these ends the bureau publishes and distributes information. The bureau is under the direction of the Belgian Government and an international committee. Member-states are divided into six groups for the payment of expenses. The seat of the bureau is at Brussels, Belgium.

15. *Bureau of the Pan-American Postal Union* (1912).—There are twenty-three members of the union, including Spain and the Philippines in addition to the twenty-one American republics. The purpose of the bureau is to serve as an organ of information and exchange between the postal services of the participating countries. The original convention, drafted in 1912, was revised in 1921 by the postal conference held at Buenos Aires. The

conferences of the union are organized by the bureau. The seat of the bureau is at Montevideo, Uruguay.

16. *International American Office for the Protection of Trade-Marks and Commerce* (1917).—The participants in this organization are the twenty-one American republics. In 1910 a convention for the protection of trade-marks was drafted by the American republics, and in 1917 the bureau was created to secure the registration of trade-marks among Latin-American states and to publish information helpful to the purposes of the union. The office is located at Havana, Cuba.

17. *International Hydrographic Bureau* (1919).—There are twenty-three members of the union supporting this bureau. The purposes of the union are to coordinate the efforts of the participating states relating to the navigation of the seas, to achieve uniformity in documents dealing with hydrography, and to develop the science of hydrography. A permanent committee forms part of the machinery of the union. The bureau publishes the *Revue Hydrographique*. The conference of the union is required to convene every five years, beginning with the year 1921. Since 1921 the bureau has been under the supervision of the League of Nations, but expenses are paid directly by the member-states in proportion to their maritime importance. The bureau is located at Monaco.

18. *Bureau for the Control of the Liquor Traffic in Africa* (1919).—The following are members: Belgium, the British Empire, France, Japan, Portugal, and Egypt. A bureau to deal with the liquor traffic in Africa was first created by the Brussels Convention of 1890, and it continued to operate until the opening of the World War in 1914, when it was disbanded. By a new convention of 1919 signed at Saint Germain, a new "Central Office" was made necessary. At the request of the Council of the League of Nations the Government of Belgium in 1922 reorganized the old bureau, which has since been

in operation. The bureau is expected to collect and preserve documents of all kinds exchanged by the contracting parties with regard to the importation and manufacture of spirituous liquors under the conditions referred to in the convention of 1919. Annual reports are sent by the member-states to the bureau and to the Secretary-General of the League of Nations, showing the quantities of spirituous beverages imported or manufactured. The bureau is located at Brussels, Belgium.

19. *The International Institute of Refrigeration* (1920). In 1908 a semi-public union arising out of both private and public initiative dealing with refrigeration was formed, with its office at Paris. In 1920 a public union was created by an international convention which, in 1926, had been ratified by thirty-seven sovereign states and dependencies. The United States has designated the American Association of Ice and Refrigeration to represent American interests in the institute. The conference of the union meets every two years. There is an executive committee, composed of one delegate from each state or colony, with the function of supervising the bureau. The purposes of the bureau are: (1) to encourage the teaching of the science and practice of refrigeration, (2) to encourage the study of better methods for the conservation of perishables in transport, (3) to collect and publish information relating to refrigeration, and (4) to act as a liaison organ between the different sciences and professional groups who are interested in the subject. The bureau publishes, among other things, a *Bulletin mensuel de renseignements frigorifiques*. The participating states are divided into six groups for the payment of the expenses of the union. The seat of the bureau is at Paris, France.

20. *The International Wine Office* (1924).—While the convention creating this organ was signed in 1924, it was not until January 1, 1928, that the office was ready to begin work. The activities of the office include the

collection and publication of information demonstrating the beneficent effects of wine, the notification of governments of international conventions to which it would be desirable for them to accede, the adoption of appropriate measures for the improvement of the wine market, and the protection of the interests of wine-growers. Ten states, representing chiefly the wine-producing territories of Europe and Africa are members. The organization results from the desire of those states to protect the interests of their producers. The office is under the supervision of a committee, which meets at least twice a year. Among the regular publications of the office are a *Yearbook* and a monthly *Review*. The agency is located at Paris.

21. *International Office for Epizootics* (1927).—In 1920 France called a conference, which was attended by forty-three states, to deal with the infectious diseases of animals. Another conference, held in 1924, arranged for the creation of an office at Paris, but it was not until 1927 that the agency was established. There are forty-three participating states. The activities of the office embrace the collection of facts and documents concerning the contagious diseases of animals and the means of combating such diseases, the notification of governments and sanitary services of the information collected, and the publication of a *Monthly Bulletin*. The office, located at Paris, is under the supervision of a committee composed of the delegates of the member-states.

The Accomplishments of International Bureaus.

International bureaus have promoted cooperation among states within numerous fields of interest. As a rule their actions have been received with more general acquiescence than have those of commissions with powers of control, perhaps for the reason that the tasks which the bureaus have been given to perform have

pertained to less controversial matters. While it will not be possible to give a resumé of the accomplishments of all of the bureaus, certain illuminating facts regarding a number of them may be mentioned in order to show the constructive work which is constantly going forward.

In a speech before the American Manufacturers Export Association in 1918, Mr. E. B. Hess emphasized the benefits which had been realized by manufacturers located within countries which are members of the Union for the Protection of Industrial Property. The reduction of expenses in the registration of trade-marks which is made possible by the bureau of the union was given particular mention. The publications of the union record a large number of trade-marks that were registered between 1893 and 1924.¹ It is indicated that in 1924

¹ *Exposé général sur la service de l'enregistrement des marques de fabrique ou de commerce, 1893-1924. Conférence de La Haye, Documents préliminaires*, pp. 25-33, Berne, 1925.

The distribution of registrations according to states is as follows:

Austria	3,150	Luxembourg	2
Belgium	2,097	Mexico	51
Brazil	135	Morocco (Spanish)	7
Cuba	72	Netherlands.	3,937
Czechoslovakia	604	Portugal	541
Danzig	25	Roumania	15
France	16,613	Serb-Croat-Slovene State	26
Germany	3,944	Spain	1,750
Hungary	310	Switzerland	5,146
Italy	1,314	Tunis	20
		Total	39,759

The number of registrations per year has been as follows:

1903	577	1914	1,394
1904	547	1915	658
1905	691	1916	850
1906	749	1917	880
1907	789	1918	987
1908	908	1919	1,575
1909 . . .	1,302	1920	2,284
1910	1,409	1921	2,562
1911	1,517	1922	2,653
1912	1,553	1923	5,258
1913.....	1,934	1924.....	5,487

approximately ten times as many were registered as in 1903. There has been a steady annual increase in the number, except for the period of the World War.

The Bureau of the Union for the Protection of Industrial Property has also been collecting and publishing information since 1883. *La propriété industrielle* and *Le droit d'auteur* are magazines which are issued periodically.¹

The operations of the Bureau for the Protection of Industrial Property have encountered several obstacles.² The materials supplied to the organ from which information is gathered and published rarely come from official sources within states that are members. Much of it is gathered by the bureau from unofficial sources or is sent in by private individuals, with the result that it is not always accurate. It is desirable that states in the union accept the obligation to send the bureau copies of pertinent official acts. A suggestion has also been made that the bureau be authorized to call the attention of members to their shortcomings in meeting obligations that have been assumed by them. At the present time the organ may notify other members of the union of violations, but it is questionable whether the transgressing state may be called into account by the office.³ Finally, it has been suggested that the functions of the bureau and those of the entire union would be made more adjustable if the conference of the organization were enabled to recommend amendments to the convention without the necessity of obtaining a unanimous decision.⁴

The Bureau of Weights and Measures, according to an eminent authority, "has given us a world language of

¹ The magazine known as *Le droit d'auteur* is the official organ of the Copyright Union, which is served by the Bureau of the Union for the Protection of Industrial Property.

² These are described by LADAS, S. P. *The International Protection of Industrial Property*, pp. 810-815.

³ *Ibid.*, p. 119.

⁴ *Ibid.*, p. 811. Mr. Ladas points out that neither the procedure of reservations nor that of restricted unions is desirable. He believes that some form of majority action might be accepted.

weights and measures.”¹ The efficiency of its labors has been promoted by the fact that during its history of nearly forty years it has had only four directors.² The present director, M. Guillaume, has described in a recent volume the accomplishments of the organization, which show that the bureau has been of assistance to business and science, and in the development of international cooperation.³

The contributions of the Universal Postal Union in the facilitation of international communication deserve particular mention. A description has already been given of the high cost of international communication and the intolerable lack of uniformity in rates prior to the creation of the Universal Postal Union in 1874. The ease with which postal material is transmitted across national boundaries today stands out in striking contrast with the old order.

As evidence of the practical utility of the Bureau of the Universal Postal Union, reference may be made to the volume of business which comes within the provisions of the convention of the union. The main convention defines correspondence as including “letters, post-cards, both single and reply-paid, commercial papers, samples of merchandise, and printed papers of every kind, including articles printed in relief for the use of the blind.”⁴ Such correspondence may be sent as “express packets,” or under a special delivery service, in countries “of which the administrations agree to undertake this service in their reciprocal relations.”⁵ The main convention further provides for the registry of articles and

¹ HUDSON, M. O., “The Development of International Law Since the War,” *The American Journal of International Law*, Vol. 22, p. 340

² GUILLAUME, C. E., *La création du Bureau international des poids et mesures*, p. 318, Paris, 1927.

³ *Idem.*

⁴ *Convention postale universelle*, Art. 32, published in pamphlet form by the Universal Postal Union, London, 1929

⁵ *Ibid.*, Art. 44.

holds the postal administrations financially responsible for losses occurring. Cash on delivery packets which are registered and marked with trade charges are also permitted in the agreement. In 1927 there were 3,090,850,036 pieces of postal material mailed under the terms of this convention, as compared with 143,958,799 in 1875 and 2,439,288,306 in 1913.¹ The voluminous exchange of ideas and information represented by these figures not only serves as a binding force among peoples of diverse interests but also as an invaluable aid to commercial intercourse.

The services of the union have been extended to a number of other subjects by special conventions to which separate adherence has been given by states. For instance, there is a convention, accepted by ninety-eight postal administrations, relating to insured letters.² It contains stipulations in regard to maximum values which may be declared, rates, responsibility and cash on delivery packets. Its importance may be seen from the fact that in 1927 there were 4,241,077 letters and packages in international traffic insured under it, the total value of which was declared as 1,318,675,085 francs.³ There has been a steady increase both in the number of postal administrations which have accepted the convention and in the volume of insured articles which have been sent.⁴

¹ *L'Union Postale Universelle*, Supplement, Annex VIII, Berne, 1929.

² *Treaty Series*, (League of Nations), Vol. 40, pp. 249-307.

³ *L'Union Postale Universelle*, Supplement, Annex VIII, Berne, 1929.

⁴ *Idem*. The following table illustrates these facts:

Year	Number of administrations	Number of insured articles
1875	9	685,173
1890	25	2,212,815
1905	55	2,730,335
1919	38	1,106,208
1922	76	3,268,778
1927	98	4,241,077

Another special convention of wide utility in promoting international intercourse is that relating to parcels.¹ Among the provisions of the agreement are some dealing with rates, payment of customs, warehousing charges, cash on delivery parcels, insurance, and responsibility. There were one hundred and twenty-seven postal administrations which came under the authority of the convention in 1927.² The number of parcels mailed in international intercourse increased from 4,739,131 in 1875 to 64,738,050 in 1913.³ The post-war annual figures had not reached those of 1913 at the end of 1927, when 42,515,156 packages were carried in the international mail service.

The money order convention has also enjoyed wide application. Like the conventions dealing with letters, parcel post, and insured matter, the agreement regarding money orders has been in operation since 1875. Its provisions relate to charges, the issuance and payment of money orders, and responsibility.⁴ The number of postal administrations bound by the agreement has increased from twelve in 1875 to one hundred and seventeen in 1927. Similarly, the annual issuance of money orders has increased steadily except for the period of decline caused by the World War.⁵

Several other special conventions have added to the facility of international communication. They have had to do with such matters as postal certificates of identity, postal subscriptions to newspapers, and postal

¹ *Treaty Series* (League of Nations), Vol. 40, pp. 307-437.

² *L'Union Postale Universelle*, Supplement, Annex VIII.

³ *Idem.*

⁴ *Treaty Series* (League of Nations), Vol. 40, pp. 440-485.

⁵ *L'Union Postale Universelle*, Supplement, Annex VIII. In 1875 there were 918,591 money orders issued, in 1913 there were 33,055,961, and in 1927 there were 20,516,863.

service des recouvrements.¹ Most recent in the list is the agreement of 1927 relating to aerial mail service.²

The broad field of interests covered by the conventions that have been formed under the auspices of the Universal Postal Union, and the large volume of mail which is transported in international traffic are significant for the reason that they show the important position of the administrative bureau at Berne. It is clear that without the services of the bureau as a clearing-house for the settlement of accounts, as an organ to prepare for conferences and to publish information, the activities of the union would be greatly hampered.

The work of the Universal Postal Union and its bureau is aided by the fact that disputes between postal administrations may be arbitrated. In 1929 a dispute arose between the postal administrations of Greece and Yugoslavia with regard to the responsibility arising out of the application of Article 10, Paragraphs 1 and 7, of the Universal Postal Convention of Madrid, and Article 23, Paragraphs 6 and 8, of the regulations.³ The postal administrations of the Netherlands and Switzerland successfully arbitrated the affair. So important and varied have the operations of the Universal Postal Union become that the organization has been referred to by Professor M. O. Hudson as a "universal league of nations."⁴

¹ For the agreement relating to certificates of identity see *British and Foreign State Papers*, Vol. 83, p. 1007; for that on subscriptions to newspapers, *ibid.*, Vol. 83, p. 1013; for *service des recouvrements*, *ibid.*, Vol. 76, p. 1336.

² *L'Union Postale Universelle*, Supplement, XVIII.

³ *L'Union Postale*, p. 279, September 1929. (Monthly publication of the Bureau.)

⁴ HUDSON, M. O., "The Development of International Law Since the War," *The American Journal of International Law*, Vol. 22, p. 340.

CHAPTER VII

THE CONVENTIONAL BASIS OF INTERNATIONAL ADMINISTRATION

Administrative agencies are generally created and their methods described through the instrumentality of conventions. Used in this connection, the convention is analogous to the statutes of national governments which deal with administrative organs. Like national statutes, international conventions are affected in their application by the activities of the administrative and judicial branches of government.

Multipartite Conventions.

While there is no legislation in the realm of international organization comparable to that found within states, the conclusion of multipartite agreements by conferences with subsequent national ratification has afforded a practicable substitute. The number of ratifying and adhering states may be a fact of importance in connection with the practical merits of a given convention, but the lack of universality can not detract from its binding force among those states which choose to participate. For them it is law, and in fact, it is only by this method that international law may be formally enacted.

Since the middle of the nineteenth century multilateral treaties have been formed with increasing frequency. Professor M. O. Hudson has compiled a list of two hundred and twenty-eight such agreements which were concluded between August, 1864, and July, 1914.¹

¹ *The American Journal of International Law*, Vol. 22, No. 2, Supplement Section, pp. 90-100. The list is contained in an appendix to the article by Professor M. O. Hudson entitled "The Development of International Law Since the War."

This process of legislation was handicapped before the World War by the undeveloped and irregular nature of the conference system. Aside from the organization of public international unions, there was no periodicity of meetings and little in the way of international machinery to assist in preparing for gatherings.

Since 1919 multipartite conventions have been formed more frequently than before the war. Prior to January, 1928, one hundred and sixty-six agreements were completed, representing an average of between nineteen and twenty annually, as compared with the prewar average of less than five.¹ They have dealt with a wide range of interests, including both the law of war and the regulation of peace-time pursuits, with decreasing attention to the former and a growing emphasis upon the development of the law of peace.²

Types of Conventions Relating to International Administration.

There are two types of conventions relating to international administration from the point of view of

¹ For a list of post-war multipartite conventions compiled by Professor M. O. Hudson see *The American Journal of International Law*, Vol. 22, No. 2, Supplement Section, pp. 101-108.

² Professor Hudson has made the following remarks with respect to post-war conventions:

"These various efforts have made the last decade notable in the history of international law as a period of unparalleled legislative activity. No previous decade has seen our law of nations carried into so many new fields, none has known such frequent conferences, none has made a larger contribution to the method by which legislative adaptation can be effected. And there is now every indication that this process will continue. No one can predict that it will not be interrupted by war; no one can allow himself to think that a final stage has been reached with respect to any topic; no one can foresee that better methods will not be evolved. The progress has not been due altogether to the work of lawyers, for the legislators have been drawn from many professions. But lawyers have borne a large share of the responsibility, and I think the legal profession of our generation can feel that its efforts have not been sterile, and that its opportunities have not been wasted."—*Ibid.*, Vol. 22, No. 2, p. 346.

form. In some instances they include all of the provisions to be adopted, while in others they are accompanied by statutes or *rèlements*.¹ Where a statute is used it is the practice to include therein the more detailed rules under which the organization is intended to operate, and to leave to the convention proper provisions having to do with such matters as the structure of the organs to be established, the ratification of the document, and the date of its entry into application. Mention should be made of the fact that statutes are also appended frequently to conventions in instances where no international administration is involved.²

The amount of detail which is incorporated into the statutes, or into the conventions where there are no statutes, varies considerably. The convention of 1875 creating the International Bureau of Weights and Measures contained fourteen short articles and the *règlement* attached consisted of only twenty-one articles.³

¹ For illustrations of conventions containing statutes see *Treaties, Conventions, etc.*, 1776-1909, Vol II, pp. 2000, 2216, 1161, 1929; also *ibid.*, 1910-1923, Vol III, pp. 3062, 2903 for more recently drafted *rèlements*. The *règlement* of the Universal Postal Union, as revised in 1924, is contained in United States *Treaty Series*, No. 1002.

For conventions without such statutes see International Sanitary Convention, 1912. *Treaties, Conventions, etc.*, 1776-1909, Vol. II, p. 2972; Convention for the Regulation of Aerial Navigation, 1919, *Ibid.*, Vol. III, p. 3768; Convention for the Control of Trade in Arms, 1919, *Ibid.*, Vol. III, p. 3752; General Act for the Repression of the African Slave Trade, 1890, *Ibid.*, Vol. II, p. 1975; Central American Treaty Creating the Bureau of Central American Republics, 1907, *Ibid.*, Vol II, p. 2411.

² The statutes in such cases contain the details of the agreement and the conventions deal with matters of a more general character. The following multipartite treaties formulated under the auspices of the League of Nations are of this character: Convention and Statute on Freedom of Transit, 1921, *British and Foreign State Papers*, Vol. 116, p. 517; Convention and Statute on the International Régime of Railways, 1923, *ibid.*, Vol. 119, p. 523; Convention and Statute on the Régime of Navigable Waterways of International Concern, 1921, *ibid.*, Vol. 116, p. 527; Convention and Statute on the International Régime of Maritime Ports, 1923, *ibid.*, Vol. 119, p. 568.

³ *Treaties, Conventions, etc.*, Vol. II, pp. 1924-1933.

The amendments which were made in 1921 to those documents did not add appreciably to their length.¹ The treatment which is given to international administrative activities by conventions and regulations of this character is necessarily general. On the other hand, the Universal Postal Union operates under the guidance of minute stipulations. The main convention of the union has eighty articles dealing with matters of organization and, in a broad way, with the functioning of that organization; appended to this convention are the detailed regulations arranged in eighty-six articles containing a large number of forms to be used by postal authorities.² Supplementing these documents are certain special agreements dealing with such subjects as insured letters and money orders.

In many cases administrative agencies have been given the authority to issue rules which will supply further details relating either to the operations of the union or to those of the member-states. The International Commission for Air Navigation has the power of formulating regulations dealing with the issuance by member-states of certificates of air-worthiness and with the use of wireless apparatus by aircraft.³ The Straits Commission may "prescribe such regulations as may be necessary for the accomplishment of its task."⁴ While this right of prescribing detailed regulations is frequently given to administrative commissions, it is not accorded to bureaus.

While international administrative arrangements operate under the authority of conventions or other forms of agreement among the interested states, it may be that they are also guided in their activities by national laws.

¹ *Ibid.*, Vol. III, pp. 3088-3092

² *Treaty Series* (League of Nations), Vol. 40, pp. 1-239.

³ *Treaties, Conventions, etc.*, Vol. III, p. 3778.

⁴ *British and Foreign State Papers*, Vol. 117, p. 592. Art. 16 of the Convention Relating to the Régime of the Straits, signed in 1923.

For instance, the Treaty of Versailles provides that unless the Governing Commission for the Saar Basin wishes to modify them, "the laws and regulations in force on November 11, 1918, in the territory of the Saar Basin (except those enacted in consequence of the state of war) shall continue to apply."¹ The election of 1928 in Nicaragua was controlled not only by the terms of the agreement with the United States but also by local laws and decrees.² As a rule, however, the laws enforced within international administrative systems are provided by conventions.

Conventions as a Source of Administration.

Multilateral pacts describe and control international administration in much the same manner that legislative acts deal with this subject within individual states. It is the function of the deliberative bodies which are responsible for both to: (a) determine the activities to be undertaken, (b) determine the agencies to be employed in the performance of such activities, (c) prescribe rules relative to the personnel of administrative agencies, (d) fix rules of procedure to be used by such organs, (e) provide for the raising of funds which will be necessary for the accomplishment of the work outlined, and (f) decide upon the means and methods of supervision and control which shall be employed.³ The extent to which these functions will be emphasized in a specific situation naturally varies among governmental systems, both national and international.

The multipartite agreement does not possess a great deal of flexibility from the point of view of adjust-

¹ Treaty of Versailles, Part III, Sec. IV. Annex, Par. 23.

² Documents pertaining to the conduct of the election may be found in *The American Journal of International Law*, Supplement, Vol. 22, pp. 118-124.

³ This list of the functions of national legislatures with regard to national administration is given by WILLOUGHBY, W. F., *Principles of Administration*, p. 14, Baltimore, 1927.

ing administrative organization and methods to new demands. It is only at a subsequent conference that modification of a treaty with a considerable number of signatories and adherents may be taken up, and the convocation of a conference is not generally possible without extensive preliminary activities. Conventions that have been drafted by conferences which are part of permanent organizations and consequently occur periodically have, however, an advantage over other pacts in this respect. For instance the alteration of the conventions and statutes of public international bureaus should not be so difficult as in the case of conventions concluded by special conferences, such as that of 1921 with reference to the régime of the Danube River. The danger that the constitution and statute creating an administrative organ may become ill-adjusted to the necessities of a given situation may also be decreased by the specific provision of a method for receiving proposals for alterations which may be considered at the next conference. It is the duty of the International Commission for Air Navigation, for instance, to receive projects from participating states relating to the amendment of the convention of 1919.¹ The bureaus of public international unions frequently perform this function. The convention of the Universal Postal Union, by way of illustration, contains the following stipulation in Article 18:²

In the interval between meetings, any Administration has the right to address to the other Administrations, through the medium of the International Bureau, proposals concerning the Convention and its detailed Regulations.

The same right is accorded to the Administrations of the countries participating in the Agreements so far as these Agreements and their detailed Regulations are concerned.

In order to be considered, every proposal introduced in the interval between meetings must be supported by at least two Administrations, not including that in which originates the proposal.

¹ *Treaties, Conventions, etc.*, Vol. III, p. 3778

² *Treaty Series* (League of Nations), Vols. 40-41, p. 41.

It is clear that provisions of this type increase the adaptability of an international pact and that an extension of their application would have a wholesome effect in the field of international administration.

The utility of multipartite treaties describing administrative activities may be further promoted by placing in a separate class those provisions which have an organic character, with the stipulation of different methods of effecting amendments to the two groups. The Convention of the Universal Postal Union, signed at Stockholm on August 28, 1924, provides in Article 20 that proposals for amendments must obtain unanimous consent in order to become binding if they pertain to specified articles of an organic character, but that a two-thirds vote will be sufficient for the alteration of all other articles, which constitute, in the main, the detailed administrative regulations.¹ There is a large number of conventions in which administrative regulations are separated from the organic articles, especially those creating permanent bureaus, but the system of differentiating between the two as to their methods of amendment is uncommon.

The Contributions of Administrative Agencies to the Content of Conventions.

Within individual states the activities of the administrative and legislative branches of government are closely related, even where the separation of powers theory is embodied in the constitutional system. In the first place, the organization, methods, and powers of administrative organs are usually defined by statute, ~~subject~~, of course, to whatever constitutional limitations there may be. Laws of this nature, and likewise constitutional provisions, contain varying amounts of detail, and consequently it is often possible for an administrative

¹ *Ibid.*, Vol. 40, p. 43.

organ to determine by the use of orders or decrees the more minute arrangements with regard to its structure and its processes. Secondly, the content of legislation within a given nation is vitally affected as a rule by the work of the administrative officials. By virtue of their contacts and their first-hand experience with the operation of the law they are in a position to be able to make suggestions to the legislature either for alterations in existing statutes or for the enactment of new measures. In states having the parliamentary form of government the influence of administrative agents in legislation is particularly prominent on account of the fact that the ministers in charge of the various departments are members of the law-making body and leaders of the dominant party or coalition. During the past century the statutes enacted by national legislatures have dealt largely with administrative activities. They have had the effect of "building up an administrative machine of great complexity which stands in constant need of repair, renewal, reconstruction and adjustment to new requirements."¹ The content of such legislation within states has been formulated in large measure on the basis of recommendations from administrative officers.

Within the field of international organization administrative agents may be able to bring influence to bear in several ways upon the process by which the contents of conventions are determined and formulated. Mention has already been made of the duty, which they are frequently given, of preparing the work of international conferences. The results of the deliberations are undoubtedly governed to a great extent by the information and data which are made available ~~by~~ the administrative agents in charge of the preliminary arrangements, even where no specific recommendations

¹ LLBERT, SIR C., *Legislative Methods and Forms* (1901), pp 212-213.

are offered. More than sixty technical memoranda were prepared in advance of the convocation of the International Economic Conference of 1927, which were basic to the decisions that were finally made.¹

Acting through supervisory committees, it may be possible for administrative agencies to extend their influence in the formulation of an international convention beyond the mere preparation for conferences to the assumption of the initiative, both in the calling of the deliberative body and in the submission of projects for adoption. This has been particularly possible within the machinery of the League of Nations. The Passport Conference of 1926 had its inception in the work of that section of the Secretariat which cooperates with the League Organization for Communication and Transit. After the First Passport Conference of 1920, the Organization for Communication and Transit, working with the Secretariat, continuously followed the changes in the passport régimes of individual states with particular attention to the progress that was being made in carrying out the resolutions of that gathering.² When it had become clear that conditions were favorable to a fresh joint examination of passport questions by the representatives of the interested governments, a special sub-committee was selected to study the situation and to prepare the agenda for a new conference.³ Shortly after this action the Council of the League was requested by the chairman of the Advisory and Technical Committee to convene the proposed conference at a date recommended by the sub-committee. The origin of the Technical Conference for the Study of Vaccination ~~against~~ Tuberculosis by Means of B. C. G. may be

¹ *Official Journal*, Special Supplement No. 58, Records of the Eighth Assembly, p. 208.

² *Passport Conference*, 1926, League of Nations document C. 423, M. 156, 1926, VIII, p. 77.

³ *Idem.*

traced to the twelfth session of the Health Committee, whose deliberations were based in some measure at least on the administrative efforts of the League.¹ In some instances the initiative in the calling of a special conference has been delegated by a prior gathering of a like nature to a designated organ, which, because of its relation to administration and the particular qualifications of its members, should be in an advantageous position to determine when the time is ripe for international deliberations. The Second Conference on Sleeping Sickness in 1927, which met at Paris, suggested that the Health Organization of the League should recommend the convocation of a third meeting at a future date.²

It is not intended to convey the impression that all of the conferences that occur within the organization of the League are initiated by the administrative branch. The Secretariat, which is the main administrative organ, is not empowered to convoke on its own authority special sessions of the Assembly under any circumstances, even though preparations for such meetings are largely in the hands of the secretarial staff; the consent of a majority of the states which are members of the Council or Assembly is required before special gatherings may take place.³ Furthermore, the Secretariat may not, on its own authority, convene a special conference to meet under the auspices of the League. It is through the technical organizations and advisory committees that the administrative officers are able to assert themselves. By virtue of the fact that these organizations and committees have both deliberative duties and administrative connections, they are particularly well-fitted to make recommendations to the Council and Assembly of the League.

¹ *Monthly Summary* (League of Nations), Vol. VIII, No. 11, 1928, p. 386

² *Ibid.*, p. 384.

³ HOWARD-ELLIS, C, *op. cit.*, p. 123.

Outside the machinery of the League it is possible to discover instances, particularly among public unions, where administrative organs take the initiative in the convocation of conferences, and consequently have been active in the development and revision of international conventions. The Convention of the Pan-American Union, adopted at Havana in 1928, empowers the Governing Board to determine the date of conference meetings, "provided that in no case shall a longer period than five years elapse between conferences, except in case of *force majeure*."¹ The International Committee of the Bureau of Weights and Measures may summon a general conference, and is obliged to do so at least once in six years.² Arrangements of a similar character in force in other institutions might be mentioned.

Finally, international administrative officers are frequently able to assist in the making of conventions by participating in conferences. This is particularly true within the machinery of the League of Nations. At the special conferences which occur under the auspices of the League, it is the usual practice to designate as the Secretary-General of the meeting a member of the League Secretariat whose duties are closely related to the subjects under discussion. For instance, the secretarial staff of the Second International Conference on Sleeping Sickness, held at Paris in 1928, was taken from the Health Section of the League Secretariat.³ These administrative officers are able to participate in the discussions that take place and often do so. Mr. M. R. Haas, in charge of the Communication and Transit Section of the Secretariat, acting as Secretary-General of the European

¹ SCOTT, JAMES BROWN, "The Sixth International Conference of American States," *International Conciliation*, No. 241. Text of the convention given in pages 76-81.

² *Treaties, Conventions, etc.*, Vol. II, p. 1930.

³ *Report of the Second International Conference on Sleeping Sickness*, C. H 743, Geneva, 1928.

Conference on the Transport of Newspapers and Periodicals (1929), availed himself of the opportunity to present information and assert opinions on a number of occasions.¹ Similarly, in the European Conference on Cards for Emigrants in Transit (1929), the Secretary-General took part in the discussions, on one occasion giving his opinion that shipping companies should not be required to make deposits if they were to receive transit cards.² The Secretary-General of the League of Nations, meeting with the Council, participates in the debates which take place and submits notes and memoranda relating to items on the agenda.

It has also been the practice in several instances to call into conference administrative officials other than those who are taken from the Secretariat of the League. In the event that this is done, they are attached to the office of the Secretary-General of the conference in the capacity of experts. An illustration of such an arrangement is to be found in the European Conference on Cards for Emigrants in Transit (1929).³ On this occasion two persons from the International Labor Office were attached to the conference secretariat.

The presence of administrative officials at a conference as members of the secretarial staff or as experts does not imply full membership. They do not have the power to sign conventions or to vote. They are by no means so important or so powerful in promoting their policies as the administrative officers of a state with the parliamentary form of government. They are able only to present information and opinions, the influence of which may be great or small.

¹ *European Conference on the Transport of Newspapers and Periodicals*. Records and Texts, C. 115, M. 36, 1930, VIII, Geneva, 1930, pp 11, 12, 13.

² *European Conference on Cards for Emigrants in Transit*, C. 326 M. 112, 1929, VIII, pp. 19, 25, Geneva, 1929

³ *Ibid.* See the list of members and officers of the conference.

The Significance of the Cooperation of Administrative Officers in the Formation of International Conventions.

Much significance may be attached to the fact that definite provision has been made in a number of existing international organizations for administrative action in the origin and preparation of conventions and other agreements among nations. In the first place, it adds somewhat to the adjustable character of international conventions. It also transfers the initiative in the formulation of international policy, in part at least, from a national to an international basis. There has always been a widespread tendency on the part of states to suspect the motives of a country which proposes an international meeting. It was partly on this account that in some fields, such as the law of rivers, conventional agreements had to be dealt with incidentally by gatherings called for other purposes. Finally, the practice substitutes the action of experts for that of diplomats at points where the subject-matter is technical.

The Conventions Formed under the Auspices of the League of Nations.

Since it is within the League of Nations that the relationships which have been discussed in this chapter are most in evidence, special attention may be directed to those conventions which have been formed with the assistance of administrative officers. The following list includes the most important multipartite treaties concluded during the first ten years of the League's existence.¹

Labor conventions (twenty-six, promulgated by the international labor conferences)

Communication and transit conventions (nine)

Convention dealing with traffic in women and children (1921)

Convention on traffic in obscene publications (1923)

Conventions relating to traffic in opium (two, in 1925)

¹ *Official Journal*, 10th year, No. 12, December 1929, pp. 1773-1836.

Convention dealing with traffic in arms (1925)
 Convention prohibiting gas warfare (1925)
 Slavery convention (1926)
 Commercial arbitration convention (1923 and 1927)
 Convention on customs formalities (1923)
 Convention creating the international relief union (1927)
 Economic statistics (1928)
 Import and export restrictions convention (seven)
 Suppression of counterfeiting currency (1929)

In addition to the fifty-five conventions enumerated above, the League has been responsible for many others, some of which have dealt with international administrative activities. For instance, the protocol relating to the settlement of refugees in Greece, and those dealing with reconstruction in Austria relate directly to the field of administration.¹ It is evident, therefore, that the efforts of the League of Nations, made jointly by its administrative and deliberative organs, have contributed not only to the formulation of international conventions in matters of common interest, but also to the further development of administration.

The conventions formed under the auspices of the League have been applied among varying numbers of states. Usually, as would be expected, they have been signed by more states than have ratified them. On May 23, 1928, the labor conventions, which at that time had been increased in number to twenty-five, had received a total of three hundred ratifications, and in addition twenty-two ratifications had been approved by the appropriate national authorities.² Naturally those conventions which were drafted at the first conferences of the organization have been more widely accepted than later ones. There are several labor conventions which have been ratified by from thirty-five to forty states. On

¹ For those agreements see *Treaty Series* (League of Nations), Vol. 13, p. 238, Vol. 19, p. 1506, and Vol. 12, p. 413.

² A statement to this effect was made in a small leaflet issued by the International Labor Office in 1928 entitled *The International Labor Organization, Constitution, Objects, Results*, p. 2.

February 1, 1928, the Convention and Statute on Freedom of Transit, signed at Barcelona in 1921, had been ratified or adhered to by twenty-six states.¹ The Convention on Traffic in Women and Children of 1921 had been accepted by thirty-three countries, and one of the conventions of 1925 with regard to traffic in opium had received twenty-five ratifications.² On the other hand, the Protocol on the Prohibition of Gas Warfare of 1925, which had been signed by thirty-eight nations, had been ratified by only two and adhered to by one.³ Most of the important conventions formed under the authority of the League of Nations have been accepted widely enough to give them a semi-legislative character and to render their existence a matter of some moment.

Judicial Processes for the Interpretation of Conventions Defining the Powers and Methods of Administrative Agencies.

International conventions establishing administrative agencies frequently contain provisions for the settlement of disputes which may arise over their interpretation. It is the purpose of such arrangements to give the conventional bases of administration a definiteness of meaning which will facilitate operations.

The organs of arbitration for the determination of the meaning of conventions having to do with administration are chiefly of two types. There are some which belong within the machinery of the union or institution itself. The Saar Basin Commission offers an illustration of an organization acting in an arbitral manner to interpret the provisions of the convention under which it operates in an administrative capacity.⁴ In the Postal

¹ HUDSON, M. O., "The Development of International Law Since the War," in *The American Journal of International Law*, Vol. 22, No. 2, p. 342.

² *Ibid.*, p. 343.

³ *Idem.*

⁴ Treaty of Versailles, Part III, Sec. IV, Annex I, Art. 33.

Union a special arbitral board, composed of the two disputants and another member-state, is selected to act.¹ The chief objection to arrangements allowing the administrative organ to act judicially is that it may not be sufficiently impartial. On the other hand, most of the disputes in regard to the interpretation of the convention will have to do, not with the powers of the administrative organ, but with the other stipulations.

A second method has been to refer questions of interpretation to an external tribunal which is in no sense a part of the institution whose convention is contested. The machinery of the League of Nations, the Permanent Court of International Justice, and the Permanent Court of Arbitration are available for the settlement of questions of this character. The Definitive Statute of the Danube, drafted at Paris in 1921, contains the following provision:

¹ *Treaty Series*, Vol. 40, p. 37. The convention contains the following provisions:

"In case of disagreement between two or more members of the Union as to the interpretation of the Convention and the Agreements, or as to the responsibility imposed on an Administration by the application of these Acts, the question in dispute is decided by arbitration. To that end, each of the Administrations concerned chooses another member of the Union not directly interested in the matter.

If one of the Offices in disagreement does not take any action on a proposal for arbitration within a period of six months, or of nine months in the case of overseas countries, the International Bureau, on a request to that effect, may call on the defaulting Administration to appoint an arbitrator, or may appoint one officially.

The decision of the arbitrators is given on an absolute majority of votes.

In case of an equality of votes, the arbitrators choose, with the view of settling the difference, another Administration with no interest in the question in dispute. Failing in an agreement in the choice, this Administration is appointed by the International Bureau from among the members of the Union not proposed by the arbitrators.

The arbitrators may not be appointed from among Administrations which do not participate in the Agreement concerning which the dispute has arisen "

All questions relative to the interpretation and application of the present convention shall be submitted to the commission.

A state which is prepared to allege that a decision of the International Commission is *ultra vires* or violates the convention may, within six months, submit the matter to the special jurisdiction set up for that purpose by the League of Nations. A demand for a ruling under the aforesaid conditions, based on any other grounds, may only be preferred by the state or states territorially interested.¹

Similar provisions are contained in Article 52 of the Convention on the Navigation of the Elbe, signed in 1922.² By the Convention for the Regulation of Aerial Navigation of 1919, the International Commission for Air Navigation is empowered to settle disagreements relating to technical regulations, but the interpretation of the convention is to be decided by the Permanent Court of International Justice, as a matter of compulsory jurisdiction.³ The agreements defining the mandates also give to the Permanent Court of International Justice the right to interpret their provisions.⁴

The Permanent Court of International Justice has heard controversies relating to the powers of two international river commissions. On December 9, 1926, the Council of the League, at the request of France, Great Britain, Italy, and Roumania, submitted problems relating to the jurisdiction of the European Commission of the Danube to the Court.⁵ The first main question on which the Court was asked to render an advisory opinion was framed as follows:

Under the law at present in force, has the European Commission of the Danube the same powers on the maritime sector of the Danube from Galatz to Braila as on the sector below Galatz? If it has not

¹ *British and Foreign State Papers*, Vol. 114, p. 545.

² *The American Journal of International Law*, Supplement 17, p. 239.

³ *Ibid.*, p. 206.

⁴ *Official Journal*, pp. 862-887, 1007, 1013, August, 1922; and pp. 85-95, January-February, 1921

⁵ Publications of the Permanent Court of International Justice, Series B, No. 14.

the same powers, does it possess powers of any kind? If so, what are these powers? How far upstream do they extend?

The jurisdiction of the Commission had been a subject of dispute for a long period of time, particularly after the conclusion of the treaty of 1883 purporting to extend the powers of the organ over the sector from Galatz to Braila, to which Roumania was not a party. It was the contention of the Roumanian Government that between Galatz and Braila the European Commission had only "technical powers" rather than "juridical powers." The Court gave as its opinion on the question that, "under the law at present in force the European Commission of the Danube has the same powers on the maritime sector of the Danube from Galatz to Braila as on the sector below Braila."

Another question, simultaneously submitted, was whether the powers of the European Commission over the Galatz-Braila sector, if any, extended "over one or more zones, territorially defined and corresponding to all or part of the navigable channel, to the exclusion of other zones territorially defined and corresponding to harbour zones subject to the exclusive competence of the Roumanian authorities." The Court concluded with reference to this query that "the powers of the European Commission of the Danube extend over the whole of the maritime Danube, and are not excluded from zones territorially defined and corresponding to harbour zones." It was also the opinion of the tribunal that the dividing line between the respective competences of the European Commission of the Danube and the Roumanian authorities in the ports of Galatz and Braila is to be fixed according to the criteria "of navigation and of the obligation to ensure freedom of navigation and equal treatment of all flags."

A third question, based on the assumption that the powers of the European Commission from Galatz to

Braila were not identical with those of the agency below Galatz, raised the issue as to "what exact point shall the line of demarcation between the two régimes be fixed." In view of the fact that the Court found the powers of the organ to be the same for both sectors, it was unnecessary to answer this question.

The second river commission whose authority has been examined by the Permanent Court of International Justice is the International Commission of the Oder.¹ The case was submitted on October 30, 1928, by a special agreement in which the following questions were formulated:

According to the provisions of the Treaty of Versailles, does the jurisdiction of the International Commission of the Oder extend to those portions of the Wartha and Netze, tributaries of the Oder, which are situated within Polish territory, and if so, what is the law which should govern the determination of the upstream limits to which this jurisdiction extends?

The parties to the agreement referring the matter to judicial settlement were Poland, on the one hand, and Great Britain, Czechoslovakia, Denmark, France, Germany, and Sweden, on the other. The judgment, rendered on September 10, 1929, supported the contention that the jurisdiction of the commission extends to the Polish portions of the Wartha and Netze.

The tenth advisory opinion of the Permanent Court of International Justice, given in 1925, dealt indirectly with the powers of an administrative organ. By Article 2 of the Convention Concerning the Exchange of Greek and Turkish populations, signed at Lausanne on January 30, 1923, it was provided, *inter alia*, that all Greeks "who were already established before the 30th October, 1918," in Constantinople should be considered as Greek inhabitants.² A Mixed Commission was created by the

¹ Publications of the Permanent Court of International Justice, Series A, No. 23.

² *British and Foreign State Papers*, Vol. 118, p. 1048.

convention to "supervise and facilitate the emigration provided for in the present convention," and to it was given the power of deciding "all questions to which this convention may give rise." Soon after the convention was put into force a question came up as to the meaning that should be attributed to the word "established," as contained in Article 2. On October 22, 1924, the Greek Government appealed to the Council under Article 11 of the Covenant. In November the Mixed Commission requested the Council to obtain an advisory opinion from the Permanent Court of International Justice with regard to the controversy. The Court decided that in order to be "established," the Greek inhabitants must reside within the city of Constantinople and must have arrived prior to October 30, 1918, with an intention to remain indefinitely.¹

The powers of the Mixed Commission were involved in the sixteenth advisory opinion of the Permanent Court of International Justice.² In a treaty between Greece and Turkey concluded in 1926, the Mixed Commission for the Exchange of Greek and Turkish Populations was given certain duties to perform, and it was stipulated that "any questions of principle" which might arise in the commission with respect to those duties should be submitted to the Greco-Turkish Arbitral Tribunal. There was a disagreement between Greece and Turkey as to the authority of the Mixed Commission under the treaty to submit such questions to arbitration, and therefore an advisory opinion was requested from the Permanent Court of International Justice. In its opinion the Court stated that, "It is for the Mixed Commission for the Exchange of Greek and Turkish Populations alone to decide whether the conditions . . . for the submission of the questions contemplated by that

¹ Publications of the Permanent Court of International Justice, Series B, No. 10

² *Ibid*, Series B, No. 16.

article to the President of the Greco-Turkish Mixed Arbitral Tribunal sitting at Constantinople, for arbitration, are or are not fulfilled.”¹

The judgments of the Court on the Mavrommatis Jerusalem concessions related to actions of Great Britain as the mandatory for Palestine.² They have interpreted the terms of the mandate under which Great Britain has administered the territory in behalf of the League of Nations.

By providing authoritative interpretations of the conventions under which administrative agencies function, international judicial and arbitral tribunals may facilitate the operations of those organs. Furthermore, such interpretations may have the effect of restricting administrative bodies to those activities which were intended by the participating states to be undertaken.

¹ Publications of the Permanent Court of International Justice, Series B, No. 11.

² For the three judgments of the Court on this subject see *ibid.*, Series A, Nos. 2, 5, and 11

CHAPTER VIII

THE PERSONNEL OF INTERNATIONAL ADMINISTRATION

International administration involves the efforts of officials and employees authorized to perform designated tasks. These officials belong either to the national civil service systems or to an international service. In general, the international service is somewhat less systematized than those of modern states, chiefly on account of the multiplicity of existing organs, each maintaining its separate staff. It is within the League of Nations, including the International Labor Organization, that the greatest amount of order and system may be found. Other international organizations do not have the same need of comprehensive methods of dealing with personnel problems since the number of their employees is comparatively small.

The Use of State Agents in the Execution of International Conventions.

State agents may be used individually in connection with international administration in either of two ways, as well as collectively in the form of international commissions. They may be employed to supplement the activities of international agencies in such a manner that there is international control over certain aspects of a situation and national control over others. Where the national officials are not mentioned by a treaty it is properly assumed that they will apply its provisions just as local courts will adjudicate in relation to the document. The Convention for the Regulation of Aerial Navigation of October 13, 1919, by way of

illustration, describes the registration of aircraft and the issuance of certificates of air-worthiness by signatory states without designating the local authorities who are expected to act, and assuming that they will be governed under the municipal law of the respective countries.¹ The postal officials of a state having membership in the Universal Postal Union are expected to give effect to the rules prescribed by the convention of the organization. The international significance of supplementary national administrative actions of this character is apparent.²

International administrative systems involving the control of designated affairs by the officials of several states acting jointly have been described in Chapter III. The selection of these officers, their remuneration, and their control are entirely on a national basis. They may belong to the regular civil service personnel of the states involved, or they may be special agents delegated for the performance of particular functions.

International Organs and Their Personnel.

International organs of administration, including commissions and commissioners with powers of control and ministerial bureaus and secretariats, have been created in large numbers during recent decades. They were first used in connection with the arrangements

¹ *Treaties, Conventions, etc.*, Vol. III, p. 3774. Attention may be called to the fact that most of the conventions drafted under the auspices of the League of Nations rely entirely upon national application. See *British and Foreign State Papers*, Vol. 116, pp. 517, 527; Vol. 119, pp. 523, 548, 568 for conventions dealing with navigable waterways, freedom of transit, maritime ports, railways, and the transmission of electric power, respectively.

² Mr. C. Delisle Burns believes that they constitute a form of international administration. See BURNS, C. D., "International Administration" in the *British Yearbook of International Law*, 1926, pp. 58-60. On account of the fact that the administration within a state is controlled exclusively by itself, without the presence of international agents or the agents of other states, it should be regarded as national

made throughout the nineteenth century for the international control of rivers and in the machinery of a number of public unions established to deal with economic and social matters. More recently the League of Nations and the International Labor Organization have found it desirable to make use of international agencies and officials. The Secretariat of the League comprises within its eleven sections approximately six hundred persons and the Labor Office has over three hundred and fifty, grouped into three divisions.¹ The rapid increase in the size of the Secretariat may be seen from the following table:²

Total	Year	Permanent staff	On probation	Temporary officials
183	1920	183		
347	1921	285		31
368	1922	296	17	23
386	1923	268	39	40
424	1924	295	45	48
442	1925	288	69	47
467	1926	322	34	68

International administrative agencies may be divided into two categories with reference to personnel. In the first place, there are organs which are composed of appointees of an international official or group as in the case of the Secretariat of the League of Nations and the Labor Office. The individual officers under such an arrangement are presumably free from state control and consequently have an international character. Secondly, there are agencies which are themselves international even though they are made up of individuals

¹ *Official Journal*, 9th year, No. 11, Budget for 1929, pp. 1859, 1877, November 1928.

² HOWARD-ELLIS, C, *op. cit.*, p 175.

selected by member-states on the basis of representation. The Straits Commission and the two Danube Commissions are filled by the appointments of participating states.¹ An analogy may be drawn between international administrative bodies of this character and international conferences, which in a similar way are made up of national officials.

In numerous instances international administrative organs, which are themselves formed of agents retaining their state character, employ a number of subordinate officials in distinctly international capacities. Article 27 of the Danube Convention of 1921 contains the following stipulation:

To carry out the task confided to it by the terms of the present convention, the International Commission shall establish such administrative, sanitary, and financial services as may be considered necessary. The Commission shall appoint and pay the personnel of these services and define their duties.²

Following this statement there is a list of the specific services which may be created by the International Commission. The German Reparation Commission, by the Treaty of Versailles, was "authorized to appoint all necessary officers, agents, and employees who may be required for the execution of its functions, and to fix their remuneration."³ Stipulations of this type are quite common in connection with the larger and more important international commissions.⁴

¹ See Convention Relating to the Régime of the straits, (1923) in MARTIN, L., *Treaties of Peace*, Vol. II, p. 1032; and Definitive Statutes of the Danube in *British and Foreign State Papers*, Vol. 114, p. 535.

² *The American Journal of International Law*, Supplement, Vol. 17, p. 21.

³ *British and Foreign State Papers*, Vol. 112, p. 110. Treaty of Versailles, Part VIII, Sec. I, Annex II.

⁴ *Ibid.*, p. 37, in regard to the Saar Basin Commission; and *The American Journal of International Law*, Supplement, Vol. 17, p. 229, for a similar provision relative to the Elbe River Commission as defined by the convention of 1922

In several cases where the commission is formed by national appointment, the persons who compose it are technicians and, consequently, their control by the states from which they are selected is reduced to a minimum or is entirely absent. By the Sanitary Convention of 1903 the Superior Board of Health of Constantinople was composed of delegates of the participating states who were "physicians holding regular diplomas from a European faculty of medicine."¹ Even where the convention in question does not necessitate the appointment of experts the nature of the work to be done may be such as to commend the practice.

The Personnel of Commissions with Powers of Control.

For commissions of control requiring the services of subordinate administrative staffs it is customary to provide in the conventions creating the organs that they may formulate their own personnel rules. The various services of the Elbe River Commission are governed by the following Article of the convention of 1922:

A secretariat shall be set up at the seat of the Commission, comprising a Secretary-General and an Assistant Secretary-General, aided by the necessary staff.

The members of the secretariat shall be appointed, paid and dismissed by the Commission.

The Secretary-General and the Assistant Secretary-General shall be chosen by the unanimous vote of the Commission. They may not belong to the same nationality.²

Similarly, the Sanitary Convention of 1903 allowed the Superior Board of Health at Constantinople to provide for corps of physicians, disinfectors, and skilled mechanics.³ Other commissions whose activities justify an arrangement of this nature, such as the International Commission for the Danube and the Saar Basin Commission, are generally empowered to fix their own

¹ *Treaties, Conventions, etc.*, Vol. II, p. 2104.

² *The American Journal of International Law*, Supplement, Vol. 17, p. 229, Art. 7 of the convention.

³ *Treaties, Conventions, etc.*, Vol. II, p. 2104, Art. 172.

personnel regulations. In some instances, however, this power is subject to limitations, particularly with reference to the nationality of the employees, as in the case of the Elbe River Commission, quoted above. As a result of the extensive authority permitted to administrative commissions in regard to their subordinate personnel it follows that there is no uniformity among the rules in vogue. Generally there is no formal adoption of regulations and consequently the employment of minor officials is on a personal basis.

The exercise of the right commonly given to important commissions to deal as they will with personnel matters has been the subject of particular controversy in the case of the Saar Basin Commission. By the Treaty of Versailles the commission is allowed to have "all the powers of government hitherto belonging to the German Empire, Prussia or Bavaria, including the appointment and dismissal of officers, and the creation of such administrative and representative bodies as it may deem necessary."¹ In practice it is alleged that native officers have been arbitrarily evicted from office and that persons of French nationality have been put in their places.² The reports of the commission have admitted some dissatisfaction with its policies but claim to have removed only "those individuals who, by their ill-will or by their hostility to the new régime, will be likely to paralyse its actions or to compromise its work."³ The local conditions within the Saar Basin are especially fitted to produce discord over such an issue as the selection of personnel.

The Personnel of Public Bureaus.

The personnel of the commissions which are frequently used to supervise the bureaus is selected in two ways.

¹ *British and Foreign State Papers*, Vol. 112, p. 37.

² OSBORNE, S., *The Saar Question*, London, 1923, p. 168.

³ For the first report of the Saar Basin Commission see *Ibid.*, p. 203. Other reports are given verbatim in the same volume.

Usually they are made up of appointees of member-states of the union, as in the case of the Pan-American Union and the International Institute of Agriculture.¹ Where this is true the manner of their selection and their tenure are solely matters of individual state action. In the Metric Union the commissions are elected by the conferences and do not contain representatives of all of the signatories.²

The bureaus of existing unions are generally not large in personnel. The staff of the Bureau of the Universal Postal Union consists of nine persons. a director, a vice-director, two secretaries, an assistant-secretary, a registrar, a clerk, an assistant clerk, and a typist.³ The Pan-American Bureau at Washington includes sixteen persons on its staff.⁴ In addition to the staff there are a considerable number of employees, bringing the personnel up to a total of nearly one hundred. The International Institute of Agriculture is unusual in the large size of its personnel.⁵ The staff of the Pan-American Sanitary Bureau comprises eight officials besides the subordinate

¹ For the convention of the Pan-American Union, adopted in 1928, see SCOTT, J. B., "The Sixth International Conference of American States," in *International Conciliation*, No. 241, p. 344. For the convention of the International Institute of Agriculture see *Treaties, Conventions, etc.*, Vol. II, p. 2141.

² *Treaties, Conventions, etc.*, Vol. III, p. 3088.

³ SLY, J. F., "The Genesis of the Universal Postal Union," *International Conciliation*, No. 233, p. 57, October 1927.

⁴ *Congressional Directory*, 70th Congress, 2nd Session (Jan 1929), p. 320. They include the following: director-general, assistant-director, counselor, foreign trade adviser, chief clerk, chief statistician, chief accountant, librarian, managing editor, two Spanish translators, Portuguese translator, chief mail clerk, secretary, chief of division of education, chief of division of finance.

⁵ *Annuaire de la vie internationale*, (Brussels, 1912), pp. 417, 425-426. At that time the Institute was composed of four services which included staff members of eight defined grades, in addition to a number of employees. A statement presented to the General Assembly (1926) indicated that the total personnel since 1912 has been approximately one hundred.

personnel.¹ The ordinary public union, however, maintains a bureau of smaller proportions, generally with a staff of less than six persons. The Bureau of the Union for the Protection of Industrial Property, for instance, is made up of five staff members.²

The staff officers of the bureaus are usually appointed by the supervisory committees or commissions. The permanent committee of the International Institute of Agriculture is empowered to "appoint and remove the officials and employees of its office."³ In some instances there is more specific enumeration of the officials to compose the bureaus whose appointment comes within the authority of the commission. Article 7 of the convention creating the Bureau of Weights and Measures states that the committee shall choose "a director, two assistants, and the necessary number of employees" of the bureau.⁴ Where there is no commission in the union it is customary to allow the state in which the bureau is placed to select the personnel. The Ministry of Foreign Affairs for Belgium is empowered to employ and discharge the members of the Bureau of the Union for the Publication of Customs Tariffs, located at Brussels.⁵

The employees of existing bureaus who are not staff members are governed in various ways. When the organ is placed under the control of a national government, that government may issue regulations concerning the recruitment, pay, and duties of the subordinates to be employed or may deal with the matter in any other

¹ *Congressional Directory* 70th Congress, 2nd Session, p. 335. They include: honorary director, director, assistant-director, vice-director, secretary, scientific editor, and two traveling representatives.

² *Handbook of International Organizations*, p. 79, Geneva, 1925.

³ Art. 8 of the convention of 1905. See *Treaties, Conventions, etc.*, Vol. II, p. 2140.

⁴ *Ibid.*, Vol. III, p. 3094.

⁵ *Treaties, Conventions, etc.*, Vol. II, p. 1997.

convenient way.¹ National regulations, when they are formed, may require the consent of all contracting states.² Within some unions it is customary for the permanent commission to form regulations relative to the subordinate personnel. The employees of the International Institute of Agriculture are governed by a very detailed set of rules adopted by the permanent committee of the organization, which provide for recruitment by examination, a salary scale, advancement, and discipline.³ The Pan-American Union has no published regulations of this nature but emphasizes among its workers special fitness for the work undertaken. It is the practice of the Pan-American Union to employ persons of from eight to ten different nationalities so that, from time to time, the nationals of all of the states who are members will occupy positions. The ordinary public bureau is somewhat less circumspect in this regard, though adherence to the idea is not infrequent.

The Personnel of the League Secretariat and the International Labor Office.

At the Paris Conference of 1919 two theories in regard to the composition of the Secretariat of the League were propounded.⁴ It was held by one element that it should be made up of separate national delegations under state maintenance and control, with the understanding that the primary function of the Secretary-General would be to coordinate the work of the national groups. There were others at the conference who advocated that the Secretariat form an international civil service entirely

¹ *Annuaire de la vie internationale*, p. 222, 1912. The Belgian Government, for instance, follows that practice of issuing regulations in regard to the Bureau of the Union for the Publication of Customs Duties.

² *Ibid.*, p. 542. This is true in the Union for the Protection of Industrial Property.

³ *Ibid.*, p. 28

⁴ HOWARD-ELLIS, C., *op. cit.*, p. 171.

divorced from the national services. In accordance with the latter scheme the personnel would be under the control of the Secretary-General and their remuneration would be from the general funds of the League. Sir Eric Drummond, who later became the first Secretary-General, persuaded the Organizing Committee set up by the Paris Conference to adopt the system of an international service.¹

While the personnel of the Secretariat of the League of Nations and the International Labor Office is on an international basis so far as appointment, tenure, supervision, and responsibility are concerned, it has been observed that the individual members do not lose all sense of nationality or become unaware of the interests of their respective states.² Within the Fourth Committee the opinion was expressed in 1928 that the atmosphere of the Secretariat was not as firmly international as it had been in the beginning.³ The Secretary-General was, however, of the contrary opinion. As a result of the discussion a resolution was adopted reaffirming the principles which had been adopted in 1921 relative to the personnel of the Secretariat.⁴

The present personnel of the Secretariat of the League comprises persons from approximately fifty states and that of the International Labor Office is made up of

¹ *Idem.*, His attitude on the subject was expressed as follows:

"The old system had not given altogether satisfactory results, and when the members of a committee set up by the Plenary Peace Conference met to consider the matter of organization I strongly urged that the second plan should be adopted . . . we maintained that the execution of decisions should be entrusted to people who, being servants of all the states members of the League, could be relied upon to carry them out with complete freedom from national bias."—*The World Today*, March, 1924.

² BURNS, C. D., "International Administration," *British Yearbook of International Law*, 1926, p. 67.

³ Budget for the Eleventh Financial Year, *Official Journal*, 9th year, No. 11, p. 1777.

⁴ *Ibid.*, p. 1778.

about thirty nationalities.¹ The higher offices are reasonably well distributed among the nationals of member states. Among the inferior posts, however, English, French, and Swiss nationals are more numerous than those of other states, on account of the advantage of having employees able to use the official languages of the League and the availability of such persons within the environs of Geneva, particularly the Swiss. The existing distribution of positions in the main sections of the Secretariat among nationalities is indicated in the table below:

Branch of Secretariat	British	French	Swiss	Italian	Japanese	German	Danish	Belgian	American	Others
General organization	25	18	9	11	4	10	1	3	1	29
Central services	37	21	61	4	0	0	1	3	1	16
Precis-writing dept	4	5	0	0	0	0	0	0	0	1
Personnel office	3	1	4	0	0	0	0	0	0	0
Printing and publications	7	5	8	0	0	1	0	1	0	2
Library accounting branch	1	0	6	0	0	1	0	0	1	7
Registry of publications	4	0	4	2	0	0	0	0	0	3
International control office	13	6	6	0	0	0	0	0	0	2
House staff	1	0	2	2	0	0	0	0	0	2
Liaison — South America	0	3	39	3	0	1	0	1	0	2
Special organizations	0	0	0	0	0	0	0	0	0	5
Branch offices	29	22	26	6	1	3	4	3	1	50
	4	8	0	0	0	0	0	0	0	0

The manner of choosing the personnel of the Secretariat is essentially described by the following provisions of Article 6 of the Covenant:

¹ *Official Journal*, 9th year, No. 11, Budget for 1929, pp. 1857-1885. A list of officials and employees is given, together with their nationalities. After the admission of Germany into the League of Nations the Secretary-General announced the desirability of filling with Germans certain new posts to be created. See *Official Journal*, Special Supplement 42, p. 73.

The permanent Secretariat shall be established at the seat of the League. The Secretariat shall comprise a Secretary-General and such secretaries and staff as may be required.

The first Secretary-General shall be the person named in the Annex; thereafter the Secretary-General shall be appointed by the Council with the approval of the majority of the Assembly.

The secretaries and staff of the Secretariat shall be appointed by the Secretary-General with the approval of the Council.

By Articles 394 and 395 of Part XIII of the Treaty of Versailles it is stipulated that the Director of the International Labor Office shall be selected by the Governing Body and that the staff shall be appointed by the Director "who shall, so far as is possible with due regard to the efficiency of the work of the Office, select persons of different nationalities."

In the early period of the League's existence the staffs of the Secretariat and the Labor Office were appointed by the individual selection of the Secretary-General and Director, respectively, or by their principal officers acting under their authority. In 1921 the Fourth Committee reported to the Second Assembly that "this system of recruiting, which was the only possible one in the initial period, must be replaced, as a general rule to be departed from in very special cases, where the necessity for such departure can be established, by that of competitive selection . . ."¹ The Fourth Committee asserted the desirability of procuring an equitable distribution of positions among member-states, "always bearing in mind, however, the necessity of obtaining competent officials."² In accordance with the scheme approved by the Assembly in September, 1921, the Secretary-General has arranged that a candidate for a post in the Secretariat or in the International Labor Office shall send statements of his qualifications in

¹ *Records of the Second Assembly, Report of the Fourth Committee on the Organization of the Secretariat*, p. 188.

² *Idem.*

writing.¹ Persons may be designated as candidates by officials connected with the League, by members of the governments represented in the League, or by direct applications. If a candidate appears sufficiently promising, the Secretary-General may have him come to Geneva, where he is examined. If the results are satisfactory he is given a position with the understanding that the first year of his service is probationary. It is necessary for an applicant for a position to give evidence that he has diplomatic ability in dealing with officials of other states in intricate international situations, that he is a specialist adequately trained in the field which he hopes to enter, and that he is able to speak several languages.

Members of the Secretariat have, in fact, been recruited chiefly from persons who have had practical experience in the fields of their specialization.² In some cases they have come from the civil service of their own state, either with or without an understanding that they might return to the national office after a designated period of years. There has been criticism of the practice of accepting officials in the Secretariat who expect to return to their own country and resume civil service positions. Mr. C. Howard-Ellis comments as follows regarding it:

Some such arrangement has the advantage of keeping the Secretariat more closely in touch with the governments of the countries concerned, but an obvious danger, of course, is a loss of independence and too great attention to purely national points of view. The danger is that an official should come to look upon himself as the representative of his government or foreign office at Geneva and his stay at Geneva as only a step in his career in his home service. On the whole it would seem preferable that Secretariat officials should be free from any ties of this sort, and that their intimacy with and influence on the international policy of governments members of the League should be a direct function of the prestige of the League and their own usefulness and capacity to inspire confidence as its servants.³

¹ HOWARD-ELLIS, C., *op. cit.*, p. 195.

² *Ibid*, p. 196.

³ *Idem*.

The tenure of office within the Secretariat and the International Labor Office was dealt with in the report of the Fourth Committee, adopted by the Second Assembly.¹ It is provided therein that "members of the higher staff," down to and including chiefs of sections, shall be appointed for seven year periods and may be reappointed only in exceptional cases. It is the purpose of this limitation of tenure to make it possible for higher posts "to be filled by persons of any country whatsoever who are of recognized importance and widespread influence among their own people, and whose views and sentiments are representative of their national opinion."² The principle of frequent changes was regarded as "essential to make the League a living force among the nations." At the termination of the first period of seven years, several exceptions were allowed so that there would not be too large a turnover in the upper ranks of the Secretariat and Labor Office. Other officials of the two organs are on a seven year basis but with the understanding that their appointments may be renewed up to twenty-one years in some cases, and to twenty-eight in others.³

The removal of members of the Secretariat and the Labor Office was first dealt with in 1920 by the following resolution of the Assembly:

That all members of the Secretariat and the International Labor Office appointed for a period of five years or more by the Secretary-General or the Director of the International Labor Office shall, in the case of dismissal, have the right of appeal to the Council or to the Governing Body of the International Labor Office, as the case may be.⁴

In 1927 the above resolution was abrogated by the Assembly and a new one was adopted, creating, as from

¹ *Records of the Second Assembly*. Report of the Fourth Committee on the Organization of the Secretariat, pp. 189-190.

² *Ibid.*, p. 189.

³ *Ibid.*, pp. 190-191.

⁴ *Official Journal*. Special Supplement 1-6, Resolutions Adopted by the Assembly during its First Session, p. 24.

January 1, 1928, a League of Nations Administrative Tribunal, with the understanding that in 1931 the continuance of the organ should be considered.¹ The nature of this tribunal may be seen from the following article taken from its statute:

Article II.—The Tribunal shall be competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials of the Secretariat or of the International Labor Office, and of such provisions of the Staff Regulations as are applicable to the case.

The Tribunal shall be competent to settle any dispute concerning the compensation provided for by articles 43 or 71 of the Staff Regulations of the Secretariat or articles 96 *bis* or 61 *ter* of the Staff Regulations of the International Labor Office and to fix finally the amount of compensation, if any, which is to be paid.

The tribunal shall be open: (a) To the official, even if his employment has ceased, and to any person on whom the official's rights have devolved on his death; (b) To any other person who can show that he is entitled to some right under the terms of appointment of a deceased official or under provisions of the Staff Regulations on which the official could rely.²

Under the statute the Tribunal is composed of three judges and three deputy-judges, all belonging to different nationalities, who are appointed by the Council for a term of three years. Its decisions, taken by majority action, are final. A complainant may institute proceedings within ninety days of the time when the act of which he complains was committed, providing he has exhausted other means of redress and has deposited one-fiftieth of his annual salary, which may be refunded if it is shown that "there were sufficient grounds for presenting the complaint." The general expenses of the Tribunal are divided between the Secretariat and the International Labor Office "in equal shares or in such proportion as the Assembly may determine," while the expenses attributable to a hearing are borne by the administration against

¹ *Official Journal*, 9th year, No. 5, p. 751, May, 1928.

² *Ibid.*, pp. 751-752.

which the complaint is made. By Article XI the organ is empowered to draw up rules of court covering: (a) the election of the president and vice-president, (b) the convening and conduct of the sessions, (c) the rules to be followed in presenting complaints and in the subsequent procedure, and (d) all matters relating to the operation of the Tribunal which are not settled by the statute. In accordance with this stipulation a group of rules, embodied in fifteen articles and an annex, were adopted on February 2, 1928.¹

Other Administrative Personnel of the League of Nations.

The personnel of the technical organizations and advisory commissions that have been established within the League to assist in informational activities and to submit advice to the Council relating to the latter's supervisory duties are not selected and governed under the same rules which apply to the Secretariat and the Labor Office. They are usually experts, appointed in some instances by the Council, and in others by the governments which they are expected to represent.² Where the Council makes the appointments it is customary to do so after consultation with the governments concerned. Governmental appointees are frequently taken from the internal services of their respective states.

As an administrative agency of the supervisory type, the Council possesses the same personnel structure that it has for ordinary deliberations. The Council assumes the character, in this capacity, of a supervisory commission with fourteen members who are selected by the states from which they come.

Special administrative officers of the League, such as the commissioners to Austria and Hungary, have been appointed by the Council and their salaries and terms of

¹ *Ibid.*, pp. 753-756.

² *Official Journal*, 9th year, No. 11, pp. 1808-1821.

office have been fixed by that body.¹ It has been the policy of the Council to select persons from uninterested states who would not be exposed to the suspicion that they were exploiting special interests. Persons holding other posts within the League of Nations have been precluded from appointment and it has been made clear that the appointees might not engage in any other work during the period of their tenure. The commissioners have been empowered to select small staffs to assist them, with the understanding that the budgets for the maintenance of such officers must have the approval of the Council.²

The Privileges and Immunities of the International Civil Service.

International law recognizes that the diplomatic envoys of a state, located abroad, are entitled to certain privileges and immunities which do not obtain for aliens at large. The basis for the exceptional status allowed to these individuals is defined by the League of Nations Committee of Experts for the Progressive Codification of International Law as "the necessity of permitting free and unhampered exercise of the diplomatic function and of maintaining the dignity of the diplomatic representative and the state which he represents and the respect properly due to secular traditions."³

Administrative activities, as well as those of a diplomatic character, may be facilitated by a guarantee that the officials entrusted with their exercise will not be annoyed by the jurisdictional claims of the local government or by the lack of adequate protection. There is, however, a difference of degree between the need for

¹ *Principles and Methods of Financial Reconstruction Work*, p. 44, Geneva, 1930.

² There were four persons in the commissioner's staff in Austria, one in Bulgaria, and two in Hungary. See *ibid*, pp. 64-67.

³ Report of the Committee of Experts, January, 1926, in *The American Journal of International Law*, Supplement 20, p. 149

special privileges and immunities as experienced by diplomatic and by administrative officers. The interruption of diplomatic activities by the incapacity of an agent is more likely to be a serious matter than the temporary interference in administrative work, for the reason that the former is generally more urgent than the latter. While admitting the inferior claim of the administrative personnel to a special status, it is apparent that their possession of certain privileges and immunities, whether or not they are identical with those enjoyed by diplomats, may be highly advantageous in the performance of their work.

The preservation of the dignity of the official and of his state, a further justification for the privileges and immunities accorded to diplomats which is given by the League of Nations committee of jurists, is also applicable but with less force in the case of administrative agents. Some administrative officers have no official relation to the states of which they are citizens, as in the case of the members of the Secretariat of the League of Nations, and consequently there could be no affront to any state involved in the denial of a special status. On the other hand, there are a large number of officials engaged in international administrative work who are representatives of designated states. In any case the dignity of the office, as distinguished from that of states, may be enhanced by the allowance of a special status.

In a discussion of special privileges and immunities for administrative agents it is important to note the peculiar position of international officials who are in no sense state envoys. It is apparent that the recall or dismissal of an international agent on account of an abuse of his privileges would be undertaken by the organization of which he is a part rather than by any individual state. Similarly, whatever demands may be made on a state in which international officials are located for the observance or allowance of special

privileges must come from the international organizations concerned rather than from any one state.

Article 7, Paragraphs 4 and 5, of the Covenant applies the principle of diplomatic immunity to the officials of the League of Nations, as follows:

Representatives of the Members of the League and officials of the League when engaged on the business of the League shall enjoy diplomatic privileges and immunities.

The buildings and other property occupied by the League or its officials or by representatives attending its meetings shall be inviolable.

It is evident that Paragraph 4 does not differentiate between national and international officials connected with the League, nor between administrative and non-administrative officers.

In 1926 a *modus vivendi*, which is still in operation, was formed between the Swiss Federal Government and the League of Nations, elaborating the stipulations of Article 7 of the Covenant. The provisions of the agreement summarized rules which had been previously established by an exchange of notes between the organizations of the League and the Federal Political Department of Switzerland. They were adopted by the Council on September 20, 1926, after they had been separately accepted by the Swiss Federal Government, the Secretary-General of the League of Nations, and the Director of the International Labor Office.¹ The first three and the fifth and sixth articles of the agreement assert the inviolability of the premises and archives of the League, admit the immunity of the League before the courts of Switzerland and its exemption in fiscal matters; the last three articles relate to the modification of the arrangement and to questions which may arise in regard to its application.² Those parts of the *modus vivendi* which

¹ *Official Journal*, Vol. 7, p. 1422.

² *Official Journal*, Vol. 7, pp. 1422-1424.

bear upon the privileges and immunities of the officials of the League are given below, as amended to date:

Article IV.—The Secretary-General of the League of Nations and the Director of the International Labor Office are entitled to use couriers for the reception and dispatch of official correspondence with the members of the League of Nations and its agents outside Switzerland.

Article VII.—Subject to the provisions of Article IX below, officials of the organizations of the League of Nations at Geneva who are members of the staff of the first category or extraterritorial staff shall enjoy immunity from civil and criminal jurisdiction in Switzerland, unless such immunity is waived by a decision of the Secretary-General or the Director of the International Labor Office.

The members of the staff of the second category shall enjoy the same privileges in respect of acts performed by them in their official capacity and within the limits of their functions. They shall remain subject to local laws and jurisdiction in respect of acts performed by them in their private capacity.

It is clearly understood, however, that the organizations of the League of Nations at Geneva will endeavor to facilitate the proper administration of justice and execution of police regulations at Geneva.

Article VIII.—Officials of the organizations of the League of Nations who are members of the staff of the first category enjoy fiscal immunity. Consequently, they are exempted, in accordance with international practice, from all direct taxes, with the exception of charges attaching to immovable property (the land tax) and death duties to which they may be liable as heirs or legatees of a person who has died in Switzerland or as beneficiaries under a *donatio inter vivos* the donator of which is domiciled in Switzerland, it being understood that the transfer *mortis causa* or by *donatio inter vivos* of property belonging to officials enjoying diplomatic privileges and immunities shall continue to be exempted from all taxes.¹ They are liable for the payment of indirect taxes and charges. The expression "direct taxes" shall be understood to mean taxes which are levied directly upon the taxpayers. "Charges"—whatever the expression employed in the regulations governing the matter may be—shall only be understood to mean payments in return for the rendering of a special and definite service by the administration to

¹ The part of this sentence following the parenthesis was added as an amendment on April 24, 1928. See *Official Journal*, 9th year, No. 6, p. 839.

the person who pays them, together with those which are paid in order to cover special expenditure necessitated by an act of the taxpayer.

Members of the staff of the second category are exempted·

- (1) From the tax on salary (*revenu professionnel*),
- (2) From the tax on capital (*fortune*) or income (*revenu*);
- (3) From the Emergency Federal War Tax.

Article IX.—In the case of members of the staff of Swiss nationality, the following exceptions are instituted.¹

- (1) Officials of Swiss nationality may not be sued before the local courts in respect of acts performed by them in their official capacity and within the limits of their official duties.
- (2) Salaries paid to them by the League of Nations are exempted from cantonal and municipal direct taxes

The special privileges and immunities which the officials of the League of Nations enjoy under the above agreement seem reasonably well adapted to their needs. The classification of the officials, first on the basis of the ranks which they hold, and secondly, on the ground of Swiss or alien citizenship, and the apportionment to each group of a distinct status is particularly commendable. As a result of this arrangement those members of the Secretariat who are not Swiss and who are ranked as high as chiefs of sections or higher are entitled to the greatest privileges and immunities. No agreements have been made by the League of Nations with other nations affecting the status of League officials in states other than Switzerland. Consequently, Paragraph 4 of Article 7 of the Covenant, which appears to contemplate immunity to League officials within every member-state, might not be applied outside of Switzerland without difficulty.

¹ A note attached to the *modus vivendi* states that the Federal Council of Switzerland is prepared to exempt from the Federal War Tax the salaries of officials of Swiss nationality "until the expiration of the contracts of service which the persons concerned at present hold and which make provision for a salary payable free of taxes" The Federal Council does not favor permanent exemption which the Secretary-General believes desirable in order to avoid a differentiation between the contracts of League officials. A final solution of this matter has not been reached to date.

Commissioners without diplomatic status appointed by governments for special purposes do not, as a rule, possess jurisdictional immunities.¹ They may claim special protection but can not demand a recognition of full diplomatic exemptions. A British commissioner to the United States under the treaty of 1794 was prosecuted before a criminal court in Philadelphia without any complaint on the part of his Government. American commissioners to England under the same treaty applied for diplomatic immunities but were refused them.² These instances concerned commissioners without the status of diplomats, who were designated to assist in the execution of a treaty. Members of international administrative commissions would, presumably, have no better claim to jurisdictional immunities.

Conventions creating international bureaus do not provide diplomatic immunities for any of their officials. Persons attached to the bureaus in ministerial capacities, members of supervisory committees, and delegates to conferences who perform duties which are essentially diplomatic in nature, are alike without a special status. Prior to the Pan-American Conference of 1928 the Governing Board of the Pan-American Union constituted an exception to this statement, composed as it was *ex-officio* of the representatives of the participating states to the United States Government, but the immunities which they enjoyed were derived not from their connection with the union but from their character as diplomatic envoys.

Members of international administrative commissions have been given diplomatic immunities by conventional agreement in a number of instances. The Danube Commission, created in 1856, was among the earliest

¹ MOORE, J. B., *Digest of International Law*, Vol. IV, Sec 623; and HALL, W. E., *International Law*, (4th ed.), Par 104. HEFFTER, A. W., *Le droit international de l'Europe*, Par 222 considers that commissioners have a right to the "special prerogatives" of public ministers

² MOORE, J. B., *op. cit.*, Vol. IV, p. 428.

agencies to be allowed such prerogatives.¹ The Convention of 1921 Instituting the Definitive Statute of the Danube continues the arrangement with the following stipulation found in Article 37: "The property of the International Commission and the person of the commissioners are entitled to the privileges and immunities which are accorded in peace and war to accredited diplomatic agents."² The Convention of 1922 Instituting the Statute of Navigation of the Elbe has a similar provision in Article 8, which reads as follows:

The delegates, the Secretary-General and his assistant will enjoy the usual diplomatic privileges. They, and the persons appointed by the Commission, will receive from the riparian states all facilities necessary for the execution of their duties.³

By the Treaty of Versailles the members of the Inter-allied Rhineland High Commission "shall enjoy diplomatic privileges and immunities."⁴

On the other hand, there are several prominent administrative organs to which diplomatic immunities have not been given, such as the Reparation Commission and the Saar Basin Governing Commission. That no acceptable explanation, other than the circumstances of diplomacy, may be offered for the discrimination between existing agencies, some of which have been given special immunities while others have not, is evident from the treatment which has been given to the Straits Commission. By the Treaty of Sèvres the members of that body were to have been granted the usual diplomatic privileges and immunities, but the Lausanne Convention of 1923, now in operation, contains no such provision.⁵

¹ *British and Foreign State Papers*, Vol. 61, p. 7.

² *British Treaty Series*, 1922, No. 16.

³ *Ibid.*, 1923, No. 3.

⁴ *British and Foreign State Papers*, Vol. 112, p. 220, Art. 3 of the Treaty of 1919 with regard to military occupation of the territories of the Rhine

⁵ *Ibid.*, Vol. 113, p. 661 (Treaty of Sèvres), and Vol. 117 (Treaty of Lausanne), pp. 592-601

In general, permanent commissions have been given immunities more frequently than have those of a temporary nature.

Where diplomatic immunities have been allowed to the members of a commission, it has not been customary to define their precise limits by conventional agreement. Only indefinite statements are made, like those quoted above, to the effect that the officials shall have "diplomatic privileges and immunities." Furthermore, the number of officials affected is so small that it has not seemed necessary to form *modi vivendi* with the states concerned. Since the members of the commissions who enjoy diplomatic privileges are usually representatives of states, it is assumed that the same detailed arrangements will apply to them as are in force for the regularly accredited diplomatic staffs of the respective countries.

It does not appear, at the present time, that there is a widespread demand for officials connected with international bureaus and commissions to be granted diplomatic privileges and immunities by a conventional agreement of general application. The report of the League committee of jurists on the codification of international law, submitted in 1926, included the members of international bureaus and commissions along with the judges of the Permanent Court of International Justice, officials of the League of Nations, and the representatives of states to the League, as agents to whom the extension of immunities by a general code might be considered.¹ The committee's attitude toward officers belonging to the four groups was stated in the following note:

¹ For the text of the report of the committee see *The American Journal of International Law*, Supplement 20, p. 151. The Institute of International Law at its session of 1929 also dealt with the subject. A discussion of the differences between the positions of diplomatic officials and non-diplomats, including administrative agents, is given by VAN VOLLENHOVEN, C., "Diplomatic Prerogatives of Non-diplomats" in *The American Journal of International Law*, Vol. 19, pp 471-472

In the opinion of the committee, it is not certain that an absolute identity of privileges and immunities should be established between diplomats proper and the categories just mentioned. It seems possible that the difference of circumstances ought to lead to some difference in the measures to be adopted.

This represents the only attempt of a public international character that has been made to deal with the subject.

Conclusion.

With the widening field of international administration, increasing attention must be given to personnel problems. The possibility of a unified civil service system for the recruitment and management of the personnel of all administrative organs naturally presents itself, but the idea appears to be both unsound and unwise so long as the agencies themselves are distinct. The supervision by the League of Nations, under Article 24 of the Covenant, of those public bureaus and commissions which have agreed to accept it, does not imply any centralization of personnel control.¹ There is no tendency discernible toward any form of centralization within this field and consequently the *status quo* will doubtless remain for a long period of time.

¹ *Handbook of International Organizations*, pp 7-8, Geneva, 1925. This subject is further discussed in Chap. IX.

CHAPTER IX

THE SUPERVISION OF BUREAUS AND COMMISSIONS

It is believed that administrative agencies, whether they possess powers of control or not, operate to best advantage when they are placed under a systematized form of direction. The benefits which may be derived therefrom are the direction of effort along the most profitable lines and the provision of an authority designed to ensure that administrative acts shall conform to law.

The Decentralized Nature of International Administration.

During the past few decades international bureaus and commissions have been created from time to time in answer to the demands of modern international relations. It is largely on account of the gradual development of machinery within this field that numerous organs have come into being, each of which is essentially independent or, at best, only casually related to others. An analogy may be drawn at this point between the history of international administration and that of American state administration, which was simple at first but later involved numerous boards, commissions, and other agencies that have forced into the foreground of recent political questions the subject of reform. During the period when American systems of administration were charged with a minimum of responsibility, the need of reform was not conspicuous; later on, however, it became clear that important gains might be realized if centralization could be effected.

The present immaturity of international administration explains, in part at least, its decentralized character. There are numerous commissions, bureaus, and commissioners, detached from each other, and over which there consequently may be no common organ of direction. The duty of supervising these agencies has been assigned, in the main, to separate authorities within each organization or to designated national governments, on the assumption that each may remain structurally self-sufficient.

The lack of centralization in international administrative organization implies not only the absence of a common directing authority, but also an element of duplication. The International Office of Public Health, established at Paris in 1907, is expected, like the Health Organization of the League of Nations, to collect and publish information concerning public health.¹ In addition, the latter organ has been allotted special duties which the former does not possess. The project of 1921 for the consolidation of the Health Office and the Health Organization of the League of Nations was defeated.² Thereafter, until 1923, the two organizations were operating within overlapping jurisdictions; in that year, however, an agreement was reached upon a plan for close cooperation among them.³ The committee in charge of the Health Office now acts in an advisory capacity to the Health Organization of the League of Nations.

While the degree of duplication presented in the realm of health was unusual, it is possible to point to cases where distinct organs working within the same general field could profitably cooperate voluntarily, in the

¹ See Art. IV of the by-laws of the convention of 1907 in *Treaties, Conventions, etc.*, Vol. II, p. 2217; and the *Resolutions Adopted by the Assembly at Its First Session*, p. 15, November-December, 1920

² *The United States and the League of Nations, 1920-1927*, p. 19, Geneva, 1927.

³ *Idem.*

absence of a central agency authorized to institute measures of correlation and mutual assistance. The International Bureau of Commercial Statistics and the Financial and Economic Organization of the League of Nations, which is also interested in the subject of statistics, might, for example, be brought into a mutually advantageous relationship with each other, if actual consolidation proved to be impracticable.¹

Article 24 of the Covenant, which is discussed elsewhere in this chapter, is a step in the direction of the consolidation of international agencies. The small number of organizations which have placed themselves under the League has, however, limited its usefulness as a directing agency, with the result that the independence of existing administrative bodies is virtually unimpaired. The lack of a single executive head for international organizations is a considerable handicap to centralization.

National Supervision.

It is an interesting fact that certain administrative agencies and activities which are themselves distinctly international in character have been placed under national supervision by the conventions originating them. The Bureau of the Universal Postal Union is, by Article 23 of the Postal Convention of 1924, "under the supervision of the Swiss Postal Administration."² The Convention for the Protection of Industrial Property, as revised in 1911, stipulates that the Bureau of the union shall be "under the high authority of the Government of the Swiss Confederation, which regulates its organization and supervises its operation."³ It is customary, when

¹ For these organizations and their work see, respectively, the *Handbook of International Organizations*, p. 75, 1925, and the *Work of the Financial and Economic Organization*, p. 65 (Information Section of League, 1924).

² *Treaty Series* (League of Nations), Vol 40, p 43

³ *Treaties, Conventions, etc.*, Vol III, p. 2959.

this type of supervision is used, to select a country which because of its size or its neutralized status is sufficiently removed from the turmoil of international politics to render it free from suspicion. Administrative bureaus have been placed under the supervision of Switzerland and Belgium in a number of cases, but other administrative agencies have not been subjected to this form of direction. The following public bureaus are supervised by national governments, as indicated:¹

Bureau of the Universal Postal Union	Switzerland
Bureau of the Telegraphic Union	Switzerland
Bureau of Commercial Statistics	Belgium (and an international committee)
Bureau for the Publication of Customs Tariffs	Belgium
Bureau for the Protection of Industrial Property	Switzerland
Central Office of Railway Transportation	Switzerland
Pan-American Bureau for the Registry of Trade-Marks	Cuba and Brazil (with some direct control by member-states)

The powers exercised by the supervising governments with regard to the agencies placed under their charge are numerous. It is usual to put the creation of the organ in the hands of the directing state, which implies the right of deciding, within the limits of the convention, the divisions and subordinate officials which shall exist. After establishing the bureau, the supervising nation commonly designates one of its ministries or departments to assume immediate responsibility, but in some instances the convention itself names the ministry under whose control the agency in question shall come. A high officer within the ministry may be selected as the head of the bureau. By the convention of 1890 providing for an International Union of Railway Freight Transportation, the central office was given the duty of pronouncing judgment in controversies between the various

¹ Taken from the *Handbook of International Organizations*, 1925, and from the conventions creating the unions.

railway administrations. Accordingly, the Swiss Federal Council, in charge of the office, determined by an ordinance that the court in such cases should be composed of the director of the bureau and two special arbitrators to be appointed by the Federal Council.¹ The Bureau for the Publication of Customs Tariffs was placed by the Belgian Minister of Foreign Affairs under a director, who holds the position of a high official within the ministry.² By means of regulations the ministry deals with the ranks, duties, and pay of subordinates, with the budget of the bureau, and with other matters of a like nature. Frequently the annual expenditure of the bureau is limited by the convention, and the powers and duties of the organ are usually so specifically defined that the supervising government has no right of dealing with them.

National supervision of international administrative activities is not theoretically sound. It detracts substantially from the international quality of the work which is done and divides responsibility. The justification of the arrangement is its practical merit. It offers an expedient device which simplifies international organization by making it possible to get along without the establishment of special directing agencies.

National supervision loses its practical appeal in the case of agencies whose activities carry them into controversial fields. This fact is well illustrated by the recent history of the Pan-American Union. While the bureau at Washington has always been under the direction of a Governing Board, there was a widespread feeling before the Havana Conference of 1928 that the board was dominated by the United States. This criticism was due, in large part, to the fact that the chairman of the board was *ex-officio* the Secretary of State of the United States, and its membership was

¹ REINSCH, P. S., *op. cit.*, p. 30

² *Annuaire de la vie internationale*, p. 222, 1912.

composed of the diplomatic envoys of participating states accredited to Washington. This was not a case of national supervision of international administration, but of national dominance in the process of international direction. The activities of the Union of American Republics, however, embrace a long list of interests, some of which weigh heavily in the conduct of relations among the members, and therefore a movement for the substitution of a more impartial form of supervision was started. As a result, it was provided at the Fifth International Conference of American States in 1923 that the chairman of the Governing Board should be elected by its members.¹ Notwithstanding this innovation, the American Secretary of State continued to hold the office, not *ex-officio*, but because he was continuously elected. At the Havana Conference of 1928 the Mexican delegation proposed that both the chairmanship of the Governing Board and the office of director for the Pan-American Union should rotate annually among the member-states in alphabetical order, and that special envoys be delegated by the respective nations to participate in the Governing Board.² The first of these proposals was blocked on the ground that the principle of rotation, if applied to those offices, would obstruct the work of the organization. The controversy should discourage any future attempt to establish national supervision for agencies operating within the realm of vital interests.

In certain instances where national supervision has been decided upon it has seemed wise to undertake to minimize the possibility of too much control by a single state. This has been done chiefly in two ways, either by requiring that the office render annual reports to each

¹ *Report of Delegates of the United States to the Fifth International Conference of American States*, Apps. 10, 11, Washington, 1924.

² *Report of the Delegates of the United States to the Sixth International Conference of American States*, App. 16, Washington, 1928.

of the states supporting it or by obliging the supervising government to obtain the consent of all of the other governments in the performance of designated activities. The Convention Concerning the Protection of Trade-Marks, signed in 1910 by the American republics, affords an example of both of these methods of checking the directing power.¹ The two bureaus which were to be set up by that agreement at Havana, Cuba, and Rio de Janeiro, Brazil, are "governed by identical regulations, formed with the concurrence of the Governments of the Republic of Cuba and of the United States of Brazil and approved by all the other signatory states."² By the same Article it is provided that the budgets for the bureaus shall be sanctioned by the signatory governments. By Article 12 the bureaus are required to submit annual reports of their labors not only to Cuba and Brazil but also to each state supporting them.

There is a large number of international commissions entrusted with the exercise of administrative functions over which no supervising agency has been specifically placed. The reparations commissions, established by the treaties of peace at the end of the World War, are examples of such organs. The Treaty of Versailles makes the following statement which shows the freedom enjoyed by the German Reparation Commission:

The Commission shall in general have wide latitude as to its control and handling of the whole reparation problem as dealt with in this Part of the present Treaty and shall have authority to interpret its provisions. Subject to the provisions of the present Treaty, the Commission is . . . the exclusive agency of the said Governments respectively for receiving, holding, and distributing the reparation payments to be made by Germany under this Part of the present Treaty.³

The national supervision which is assumed to exist over such commissions applies not to the organs them-

¹ *Treaties, Conventions, etc.*, Vol. III, p. 2935.

² *Ibid*, p. 2940. Art. 15 of the convention.

³ Treaty of Versailles, Part VIII, Annex 2, Art. 12.

selves, but only to its individual members. The states from which the members come are in a position to direct the activities of their respective representatives but they are unable to influence the agency as a unit.

There is another type of supervision for which specific provision has been made in connection with international administrative organs. It is expressed in a large number of conventions by the requirement that the agency in question shall render annual reports to all of the member-states. In some instances it stands by itself as the only means of external supervision, but in others it has been combined with more direct methods.¹ The simple requirement of annual reports cannot be regarded as an effective method of supervision. In the first place, it is quite possible to arrange the contents of a report in such a manner as to fail to disclose important or embarrassing information while, at the same time, capitalizing every constructive accomplishment beyond its merits. Open admission of errors could scarcely be expected. Furthermore, the report method does not afford an immediate opportunity for alterations of policies, even assuming that it might display a need for such action. The report may be received too late for making readjustments, and if recommendations are given they do not have the force of orders or commands. Moreover, when the reports are issued to a large number of participating governments, remedial action of a concerted nature must be retarded by and bound up with the processes of diplomacy. The value of the requirement that reports be made does not reside in the possibility of continuous and effective scrutiny and direction, but rather in the opportunity which it gives to member-states to suggest corrections of outstanding importance which will not suffer irreparably by delay.

¹ It has been used alone in connection with the following well-known organs. Central American Bureau, and the International Maritime Office at Zanzibar (as described by the convention of 1890)

International Supervision.

The organ of international supervision most commonly used for bureaus is the supervisory commission to which are given such functions as the selection and discharge of personnel, the determination of matters of internal organization, and the issuance of regulations. Mention has already been made of the tendency to place organs of this type over public bureaus. Among the older unions providing for such a method of supervision is the Metric Union, whose convention of 1875 stipulates that "the operation of the international bureau shall be under the exclusive direction and supervision of an international commission of weights and measures, which shall be under control of a general conference for weights and measures, to be composed of the delegates of all the contracting governments."¹

The commission qualifies only partially as an effective medium of international control. Its inherent limitation is its lack of centralization and unity. By its nature it must be composed of the representatives of a number of states, among whom is scattered the responsibility for the efficient conduct of business. Furthermore, a commission cannot decide policies with the facility characteristic of a single executive, on account of the diversity of opinions which it may harbor, and also because it is not in continuous session. The commission is used extensively because it has been found to be a practical device.

It is understood that the supervisory commissions are not unrestricted in their direction of bureaus, for the ultimate authority is in every case lodged in the governments of the participating states, acting through conferences. The conventions of a number of unions contain provisions which indicate the subservience of the commissions to the conferences, while in other instances the relationship is assumed to exist. The

¹ *Treaties, Conventions, etc.*, Vol. II, p. 1926.

Convention of the International Institute of Agriculture, in Article 5, states the final control of the conference in the following words:

The general assembly shall exercise supreme control over the international institute of agriculture

It shall approve the projects prepared by the permanent committee regarding the organization and internal working of the institute. It shall fix the total amount of expenditures and audit and approve the accounts ¹

The authority of a conference over the commission is generally exercised through the right which the former possesses of amending the articles of the convention relating to the latter. In certain instances which have been mentioned the appointment of the personnel of the commission is done by the conference, with the result that the powers of the deliberative organ are somewhat greater than they are in other organizations where the commission is selected in other ways.

The League of Nations in Relation to International Bureaus and Commissions.

A second mechanism for international supervision of bureaus and commissions is the League of Nations. The origin of the project for placing administrative agencies under the direction of the League of Nations, as it developed at the Paris Conference of 1919, was essentially British.² The scheme, which appeared in the British draft for a covenant, appealed to the makers of the Covenant and was embodied in Article 24, as follows:

There shall be placed under the direction of the League all international bureaux already established by general treaties if the

¹ *Treaties, Conventions, etc.*, Vol. III, p. 2140.

² It is reported that a prominent member of the British Foreign Office, after reading Mr. Leonard Woolf's *International Government*, became convinced that such an arrangement would be mutually beneficial to the bureaus and to the League, and that consequently, a provision to that effect was written into the British draft for a covenant. HOWARD-ELLIS, *C, op cit*, pp 85-86

parties to such treaties consent. All such international bureaux and all commissions for the regulation of matters of international interest hereafter constituted shall be placed under the direction of the League

In all matters of international interest which are regulated by general conventions but which are not placed under the control of international bureaux or commissions, the Secretariat of the League shall, subject to the consent of the Council and if desired by the parties, collect and distribute all relevant information and shall render any other assistance which may be necessary or desirable.

The Council may include as part of the expenses of the Secretariat the expenses of any bureau or commission which is placed under the direction of the League.

When, in 1921, the Council received requests from a small number of bureaux that they be placed under the direction of the League, it became necessary to elucidate Article 24 so that its application might be made easier. On July 27, 1921, the Council acted unanimously in adopting a group of general principles by which it expected to be bound.¹ It was the opinion of the Council that the directing function of the League should be minimized so as to allow the bureaux a large measure of autonomy. The attitude of the Council is given in greater detail in the following quotation, taken from their own statement:

The conclusion is that authority exercised by the League will, in reality, be confined to giving the bureau the moral support which attaches to official affiliation to the League, except in cases where abuses are revealed, such as, for instance, encroachment by an office upon the sphere of action of some other international organization, or an unjustifiable refusal on the part of a bureau to cooperate with other bodies, or in the event of an insufficient degree of activity.

The exercise of such authority should not be held to imply a right to interfere in the internal organization of the bureau (appointment of officials, use of funds, etc.), nor a right to insist upon amendments to the established organization (change of headquarters, extension of sphere of action, etc.).

¹ *Handbook of International Organizations*, p. 7, 1925.

The League of Nations may, however, at any time suggest and recommend to the notice of an international bureau any improvement which might be made in its working in the interests of all concerned.

It must be assumed that the bureaux, on their side, will be ready to afford the League all possible assistance and information within their special spheres ¹

In view of the fact that Article 24 of the Covenant makes no specific mention of the relation which the League of Nations shall bear to private and semi-public bureaux, the Council dealt with the issue at its twenty-fifth session in August, 1923.² Following is the report of the Economic Committee, which was adopted at that time:

The Council, while emphasizing the value which it sets on the collaboration of unofficial organizations in the study of special questions, and on its freedom to solicit the opinions of these organizations, without prejudicing their autonomy, is, however, of the opinion

- (1) That it is not desirable to risk diminishing the activity of these voluntary international organizations, the number of which is fortunately increasing, by even the appearance of official supervision;
- (2) That article 24 of the Covenant refers solely to international bureaux which have been actually established by general conventions .

At the same session of the Council it was decided that the private organization, known as the International Committee of Agriculture, should not be taken under the direction of the League of Nations.³ In 1926, the request of the *Union Internationale de la Propriété Bâtie* for League supervision was also denied on account of its private character.⁴

¹ *Ibid.*, p. 8.

² *Official Journal*, Vol. IV, p. 858. This action of the Council reversed that taken on June 27, 1921, at which time it was decided to interpret Article 24 liberally so as to allow League direction of private agencies. See *Handbook of International Organizations*, p. 8, 1925.

³ *Official Journal*, Vol. IV, p. 858.

⁴ *Ibid.*, Vol. VII, p. 545.

Ordinarily, when the League of Nations has been given directorship over a bureau, the Secretariat of the League of Nations is made available for clerical duties whenever the need arises.¹ On the occasions of meetings of organs of the union, the Secretary-General may undertake to supply physical equipment, to ensure communication between the delegates and their Governments, to offer legal advice, and in other ways to render assistance. An obligation may be assumed by a bureau, when it is brought under the League, to accept as a member any state belonging to the League if that state makes application. While it is possible for the Council to include the annual expenses of a bureau in the budget of the League, this has not been done in any case.² Indirectly, however, the supervisory duties of the League involve some expenditures. A section is maintained within the Secretariat for liaison purposes, whose expenses average approximately twelve thousand francs a year. The audit of the accounts of the bureaus by the League, as well as the numerous other activities of a similar nature, necessitate a slightly larger staff within the Secretariat than would otherwise be required.³ The Secretariat publishes at the expense of the League a *Quarterly Bulletin of Information on the Work of International Organizations*, the first number of which appeared in 1922. It has also published from time to time a *Handbook of International Organizations*, containing a description of contemporary private and public agencies in regard to which it has been possible to obtain information.

On June 5, 1928, a memorandum was submitted by the Secretary-General to the Council, concerning the relations between the League and the bureaus under its

¹ *Ibid.*, Vol. IV, p. 9.

² Budget for the Eleventh Financial Period, 1929, *Official Journal*, 9th year, No 11, p. 1820.

³ *Idem.*

direction. After asserting that there was no attempt to interfere with the autonomy of official bureaus, the Secretary-General stated the principles by which he had been guided in dealing with them.¹ The following extract from the memorandum indicates the actual relationship that has obtained:

The Secretary-General considers that . . . the exercise of authority by the League implies, first, that the League organs shall be fully informed as to the work of the institutions . . . secondly, with due reference to the precedents already established, that it shall be able to call upon those institutions whenever their services may be of technical value from the standpoint of the League's general work; and, lastly, that the League's competent organs shall, if they think fit, be able to reach any decision in pursuance of this mission concerning general examination and coordination.

In practice, it is essential:

1. That the Secretary-General of the League should be entitled to receive all official documents exchanged between these institutions and the states represented on them . . .
2. That the Secretary-General or his delegate should be entitled to be present in an advisory capacity at all meetings of these institutions . . .
3. That these institutions should, on request, give the Council or the Assembly or the League's technical organizations opinions coming within their special competence;
4. That an annual report of the work of these institutions should be sent to the Secretary-General . . .

Thus far only three administrative agencies have been placed under the direction of the League, as follows: International Commission for Air Navigation, International Hydrographic Bureau, the Central Office for the Control of the Liquor Traffic in Africa.² Besides these administrative organs, the International Bureau for Relief to Foreigners operates under the authority of the League. This agency was created in 1907 as a private institution to encourage the conclusion of

¹ *Official Journal*, 9th year, No. 7, p. 988, Minutes of the Fiftieth Session of the Council.

² *Handbook of International Organizations*, p. 9, 1929.

treaties regarding mutual relief to foreigners.¹ By a number of post-war treaties it has been authorized to give opinions to nations in dispute over conventions relating to relief to foreigners. Its other activities, however, have not been given a public status by any international action. To some extent the League of Nations has had the cooperation of official bureaus which have not been placed under its specific supervision. For instance, the International Office of Public Health has acted in an advisory capacity to the Health Organization of the League.² Representatives of the Secretariat have been present at some of the sessions of the General Assembly of the International Institute of Agriculture.³

¹ For treaty between France and Italy of this character see *Treaty Series* (League of Nations), Vol. V, p. 295

² *Handbook of the League of Nations*, p. 152, 1925

³ *Quarterly Bulletin of Information on the Work of International Organizations*, No. 16, p. 585.

CHAPTER X

CONCLUSIONS

This volume has been devoted chiefly to the description and analysis of international administrative systems. Before leaving the subject it may be useful to state some conclusions summarizing current practice in its broader aspects and indicating present trends.

The Objectives of International Administrative Systems.

International administrative organs differ from each other not only as to powers and methods, but also with respect to their objectives. Ministerial and informational agencies have been established mainly for the purpose of performing services in behalf of other international organs and of individual states. Those services which are rendered to states are intended, variously, to encourage national adoption of selected standards, to facilitate the protection of rights established by national laws, and to assist states in providing beneficial information to their subjects. National acceptance of common standards is, for instance, an objective of the Bureau of Weights and Measures, and while the powers of that agency are not such as to demand favorable state action, it may by its custody over original standards and by furnishing copies to governments and institutions upon request, facilitate the adoption of more uniform methods. The registration of trade-marks with the Bureau for the Protection of Industrial Property is for the purpose of obtaining a recognition of the rights of the owner without the necessity of making separate applications in each country. The activities of the International Institute of Agriculture are intended, in part at least, to enable

states to provide interested parties with information relating to agricultural pursuits in foreign countries.

The objectives of international organs of control are also of several main types. In the first place, uniformity within a given field may be sought by the creation of a system of international control. Uniformity is not only conducive to simplicity but also to freedom of business and international intercourse generally. International agencies empowered to issue rules enforceable within the domain of individual states or to approve regulations which are issued by national organs appear to have such a purpose. Article 37 of the Convention for the Elbe River of 1922 is illustrative of this motive; it reads as follows:

The riparian states will submit drafts of regulations for the river police to the commission, which will fix the definitive text of these regulations. These latter must be as uniform as possible, and will be put in force in each of these states by legislative or administrative action on the part of the state called upon to secure their application. The riparian states will communicate to the commission the regulations which they issue respecting the policing and the use of ports.¹

The establishment and maintenance of joint control over territories which, it is felt, cannot be appropriated exclusively by single nations without unfortunate consequences has been the objective of many international administrative arrangements. The Saar Basin Commission, the mandate system, and the City of Tangier are illustrative of régimes fulfilling this purpose.

Another aim of administrative control appears to be the joint management of interests or entities, apart from areas of territory, which are of general concern. The majority of the interests which are under international control have merely been made the subject of conventional treatment; only occasionally are administrative agencies allowed to regulate enterprises involving the

¹ *Treaty Series* (British), 1923, No. 3. Also found in *The American Journal of International Law*, Supplement 17, p. 227.

welfare of several countries. The Danube commissions and the Straits Commission have certain regulatory duties regarding the navigation of the waterways with which they deal. The International Joint Commission for the United States and Canada possesses unusual powers relating to projects for the diversion of water along the international boundary. The international collection of customs and the international management of national elections are also for the purpose of placing activities in which two or more nations have assumed an interest under their common management.

Finally, international administrative machinery has been set up for the purpose of performing a definite act or group of acts with the understanding that, when they are completed, the organization will be terminated. It is this type of organ for which the treaties of peace of 1919-1920 most frequently provided, as an earlier discussion has shown. International agencies to deal with such matters as the administration of reparation claims and the supervision of a local plebiscite permit the cooperative management of affairs which, under national control, might be handled without consulting the interests of all.

Factors Determining the Method of Administration to Be Adopted in a Given Situation.

There are two circumstances which have doubtless contributed to the frequent employment of those methods of international administration that operate through national agencies. In the first place, the use of existing machinery is generally more convenient than the construction of special organs. National governments are well equipped for the selection of special agents, whereas international organization, apart from the League of Nations, does not possess adequate machinery to make numerous appointments. Consequently, unless an administrative system is under the supervision of the League, it may be a matter of some difficulty to

arrange for the international selection of administrative officers.

The use of national officials has been common in systems of administrative control which involve the government of strategic areas. In these instances it is probable that participating states wish to retain the maximum amount of direct control either because of the international rivalry surrounding the situation or on account of the vital relationship which the area bears to their welfare. The geographical location and the commercial value of the City of Tangier are such that a proposal to place it under the government of officials selected by an international agency would, in all probability, be unfavorably received.

The international commission may be used as an alternative to those methods which place even greater stress on national agencies, for the control of important areas. In practice, however, the commission is not used extensively for this purpose. The Saar Basin is the only important area whose government is headed by an international commission, and in this instance the régime is subject to termination in 1935. Other areas have been controlled by commissions for much shorter periods of time, as in the case of territories prior to plebiscites.

✓ Administrative systems involving the employment of national officers and those in which commissions are the essential organ of control are both used for the regulation of affairs of international concern. The former are particularly in evidence when only two states participate in the enterprise. For instance, the international collection of customs and the international administration of national elections are matters which, in practice, are usually placed under the joint control of national officers from participating states.

Where there are a considerable number of states cooperating in the regulation of an affair of common

interest, a commission is more commonly provided. Illustrations of this fact are presented by the following bodies: the International Commission for the Danube, the Rhine River Commission, the Reparation Commission, the Straits Commission, the Inter-Allied Rhineland High Commission, and the Commission for Aerial Navigation. Although the number of states cooperating in a given enterprise is a factor of importance in determining whether national agents or a commission will be used, it is not always the final consideration. There are a small number of commissions dealing with the common interests of two states, such as the International Joint Commission for the United States and Canada.

Those methods of administration which utilize the services of officials with an international status have been adopted in cases where the tasks to be accomplished do not involve controversial issues or the management of vital interests. The Secretariat of the League of Nations and the International Labor Office are illustrative of organs of this character. Furthermore, the bureau has been the only administrative agency or it has been given the most prominent position, where the work to be done is of a technical nature. This doubtless follows from the fact that the personnel of the former may be selected with greater attention to individual qualifications and with less consideration for the idea of representation than is possible in the composition of commissions. There are, to be sure, commissions whose activities relate to technical matters, such as the Commission for Air Navigation and the International Commission of the Danube, but in those organs, there also may be important decisions to be made or the subject-matter may be so controversial as to necessitate direct national participation through individual appointees.

Equal and Unequal Control by States Participating in International Administration.

The voluntary basis of membership in international organizations makes it convenient to distribute power among participating states either equally or unequally as circumstances may dictate. The arrangement which is adopted in a particular case must only fulfill the condition that it shall be acceptable. With regard to all international organizations taken collectively, there is no uniformity as to the method of distributing representation and voting-power among states which are members. For instance, states participate equally in the choice of judges for the Permanent Court of Arbitration, but unequally in the selection of judges for the Permanent Court of International Justice. The machinery of the League of Nations recognizes equality of all members in the Assembly, but not in the Council or in the method of allotting expenses. International conferences have provided for equality more generally than have other international bodies, but even here there have been numerous exceptions.¹

Administrative bureaus and secretariats are essentially free from any application of equality. Their personnel is not officially representative, though in some organs such as the Secretariat of the League of Nations and the Pan-American Union an attempt is made to select officials from a large number of states. The conferences of the states which are members of international bureaus have frequently admitted inequality in both representation and voting-power. Where supervisory commissions are placed in charge of bureaus the idea of representation is usually applied, but not always on the basis of equality.

¹ Membership in the Paris Peace Conference of 1919 and the Genoa Conference of 1922, by way of illustration, was distributed unequally. Generally conferences in time of peace have allowed equality of representation and voting power more frequently than peace conferences.

Administrative commissions with powers of control, like other international organizations, distribute the privileges of membership in different ways. Invariably commissions composed of the representatives of only two states, such as the Joint Commission for the United States and Canada, allow equal participation. Larger bodies, particularly those dealing with controversial matters, often permit unequal control. The Straits Commission is made up of one representative from each of the ten states which signed the convention of 1923 at Lausanne, with equal powers assigned to all, except that the Turkish delegate is always the chairman.¹ The Saar Basin Commission does not allow equal representation even to the most interested states, France and Germany, but includes one Frenchman, one native of the Saar Basin, and three citizens of countries other than France and Germany.² The Reparation Commission, established under the Treaty of Versailles, specifically admits the idea of inequality by the scheme of its membership, which permits designated states to participate through their appointed delegates in the treatment of all questions which arise, while other nations are allowed to take part only in enumerated cases.³ The Elbe and Oder River commissions are composed of the representatives of interested states allotted unequally.⁴

Administrative methods which stress the use of national agencies have usually provided for unequal control. Members of the League of Nations do not participate alike in the government of the mandated regions. Similarly, condominium arrangements such as that of the City of Tangier and that of the Sudan place certain states in a stronger position than others.

¹ *British and Foreign State Papers*, Vol. 117, p. 599, Art. 12 of Straits Convention.

² Treaty of Versailles, Part III, Sec. IV, Annex, Art. 17.

³ *Ibid.*, Part VIII, Sec. I, Annex II.

⁴ *Ibid.*, Part XII, Sec. II, Arts. 340 and 341

The governmental system for the New Hebrides, however, apportions powers in approximately equal amounts to France and England. The systems for the international administration of customs collections, which have been described, put more authority in the hands of the foreign states than in those of the weak states whose customs are being collected. Where weak or backward states share administrative authority over designated affairs with more powerful nations, it is the latter which are usually accorded the dominant roles.

National Concessions in Behalf of International Administration.

It is often, though not invariably, true that the assignment of a task to an international organ involves its removal from the control of a national organ of government. The exceptions embrace instances where the international agencies have been given powers hitherto not exercised by national governments or functions involving no right of final action. On account of the widespread reluctance of states to suffer any loss of power, it will be pertinent to note the extent to which concessions have been made by states in the field of administration in order to obtain the benefits of cooperation. The consent basis of international administration enables nations to concede control to external agencies whenever they so desire. It has already been pointed out that, as a method for retaining as much power as possible in the activities of administrative agencies, a requirement may be made that the international deliberative bodies authorized to consider and recommend policies for those agencies shall make their decisions by unanimous agreement.

Condominium arrangements, more than the other systems of international administration, transfer control from a national to an international basis. In such

cases, diminution of power is suffered by weak states or backward peoples, as in the case of Tangier, the Sudan, and Haiti. On the other hand, such systems of government have operated to strengthen the position of the large and powerful states of the world. Great Britain's participation in the government of Tangier, the New Hebrides, and the Sudan add to the powers of her government, and American rights in the collection of the customs of the Dominican Republic augment the powers of the Government of the United States. The condominium exercised through the Governing Commission of the Saar Basin represents a loss of power by Germany, a defeated state, and a corresponding gain by the states in the Council of the League of Nations.¹

Large states have made substantial grants of power to commissions with respect to the control of common interests, aside from the government of territories. The International Commission for the Danube may levy dues to cover expenditures for the improvement of the river. The Reparation Commission was authorized to fix the total amount of the claims which Germany should pay and to allow postponement of payments. The International Joint Commission for the United States and Canada may pass upon projects involving the use, obstruction, or diversion of boundary waters, a function which before 1909 was exercised separately by the United States and Canada. Germany has transferred to the Saar Basin Commission the power of governing that territory for a period of fifteen years.

One of the most interesting experiments in the field of international administration that has been attempted was the creation in 1902 of the International Sugar Commission, an organ whose functions represented important concessions on the part of the large and power-

¹ Since 1926 Germany has been one of the permanent members of the Council, and therefore has regained some of the control over the Saar Basin which she lost under the Treaty of Versailles.

ful states.¹ The motive of the convention creating the agency was to terminate the common practice of nations to stimulate artificially the production of sugar by granting state bounties.² As a result of this practice the natural sugar-producing areas were being forced from the world's markets. The convention of 1902 was originally signed by ten European states, and it was adhered to later by several others.³ By this agreement the signatories determined not to grant bounties and to enact a special tariff on sugar from any country granting them. The commission was authorized to decide by majority vote whether bounties were being given by any country and to notify states of the union when it was found that they were being granted. Member-states were obliged, in such a case, to apply a tariff against sugar from the state in question. The International Sugar Commission, until its abolition in 1920, was one of the most powerful administrative commissions in existence, possessing the power of obliging nations to modify their tariff laws. The Sugar Convention was denounced by Great Britain in 1913 and its application was terminated generally in 1920.⁴

The creation of international bureaus has usually involved a substitution of international for national control with respect to the subject-matter in question. The international control which is established in such cases is not, however, placed in the bureaus, but is maintained on a conventional basis. This type of arrangement means that the bureaus have duties which are, in the main, non-discretionary, and that the concessions that have been made are embodied in the conventions or statutes of the bureaus. For instance, nations which are members of

¹ *British and Foreign State Papers*, Vol. 96, p. 6.

² SAYRE, F. B., *op. cit.*, p. 117.

³ The original signatories were Great Britain, Germany, Austria, Hungary, Belgium, Spain, France, Italy, the Netherlands, and Sweden.

⁴ *Treaty Series* (League of Nations), Vol. I, p. 400.

the Universal Postal Union have placed the rates on international postal matter in the statutes of the union; the bureau has no authority to alter them, but is able to perform only routine functions with regard to their application. Similarly, the American states which belong to the Inter-American Trade-Mark Bureau have conceded in the convention of the union that they will recognize trade-marks registered through the efforts of the bureau, but the bureau occupies itself with the perfunctory duty of securing the registrations. It is clear that national concessions embodied in international conventions and statutes do not involve the transfer to administrative agencies of discretionary powers of altering policies.

There are a large number of bureaus, however, whose conventional bases do not entail any loss of national power for the reason that they relate to new activities which it has not been practicable for national governments to undertake separately. The convention of 1907 setting up an International Health Office, in its provisions for the dissemination among nations of knowledge relating to diseases, has attempted to do through international organization something which has not hitherto been tried extensively by separate governments.

International Administration in Relation to the Individual.

The majority of administrative systems operate in such a manner as to affect private interests. States are concerned either because a subject of controversy may be removed from the arena of diplomacy, as in the case of the International Joint Commission for Canada and the United States, or because their nationals may benefit. In a number of instances private interests are regulated by international administrative bodies operating directly upon individuals. In others state action taken as a result of membership in an international

organization relates in important respects to the activities or interests of persons.

International administrative systems which emphasize the use of national officers are in direct relationship with the individual more than are other administrative arrangements. In the Government of Tangier, and in the collection of customs in Haiti and the Dominican Republic, private interests are regulated directly and extensively by the international administrative régimes. In some instances represented by condominium schemes and the mandate system, the international administrative authorities may define and enforce the rights and duties of persons.

At the other extreme are international bureaus which have almost no power of regulating private interests. For instance, the Bureau of the Postal Union is concerned with an activity of general interest to individuals, and yet it has no power to regulate. An exception to the general rule is provided by the Bureau for the Protection of Industrial Property, which under the convention of 1891, is able to register trade-marks, with the result that the owner is protected in the other states which are members of the union.¹ But in this case the regulation is a purely formal process, since the application must receive the approval of the state of which the applicant is a national, and must be submitted by that state. The Pan-American Trade-Mark Bureau does not register trade-marks itself, but secures their registration among Latin-American countries upon application filed through the state of origin.

There are several permanent international commissions endowed with powers which enable them to deal with private rights and duties. The Saar Basin Commission may alter local laws after consultation with the elected representatives of the inhabitants. The International

¹ DE CLERCQ, *Recueil des traités de la France*, Vol. 19, p. 72, Paris, 1895.

Joint Commission for Canada and the United States has unusually direct relations with private interests, which appear before it in hearings to decide whether permission should be granted to projects involving the use, obstruction, or diversion of boundary waters. The International Commission for the Danube, among river commissions, maintains frequent contact with individuals and their rights. In cases where that organ undertakes to improve the navigation of the river it may collect the dues necessary to cover expenditures from the vessels using the stream. The agency is also active in fixing the police regulations for the river and, while it may not proceed against violators, it may report offenses to competent local authorities who are required to apply the appropriate punishments and to inform the commission of the measures taken in respect to the offences of which they were notified. The Elbe Commission participates in the drafting of police regulations and is able to deny to states the right of issuing permits to private interests for the improvement of navigation.

The Present and Future Importance of International Administration.

The increasing substitution of international for national administrative machinery stands out as a marked tendency of modern international relations. Not only have international agencies been established with greater frequency during recent decades than ever before and the subject-matter with which they deal broadened, but the number of states participating in these organizations has been growing with astonishing celerity. In 1929 there were one hundred and eighty-six countries, colonies, and territories in the Universal Postal Union as compared with one hundred and seventy-five in 1925.¹ The membership of the International Commission for

¹ *Handbook of International Organizations*, p. 73, 1925; and *ibid.*, p. 201, 1929.

Aerial Navigation was increased from fifteen in 1925 to twenty in 1929.¹ Similar figures could be given for other organs engaged in international administration, such as the Union for the Protection of Industrial, Literary and Artistic Property, the International Telegraphic Union, and the International Institute of Agriculture.²

These facts suggest that the forces behind the development of international administration have not yet spent themselves. The establishment of the League of Nations has served as a new point of departure within the administrative branch of international organization, as well as the diplomatic and judicial branches, by making available a more elaborate mechanism than has existed hitherto. Moreover, the existence of a judicial body such as the Permanent Court of International Justice facilitates the operations of administrative agencies by the provision of a tribunal able to interpret conventions relating to administrative activities. Similarly, the improvement of diplomatic processes through the creation of the conference machinery of the League makes it easier to negotiate for the construction or alteration of administrative bodies.

¹ *Ibid.*, p. 93, 1925; and *ibid.*, p. 191, 1929.

² For the membership of these organizations in 1925 see *ibid.*, pp. 74, 79, and 137, 1925. For their membership in 1929 see *ibid.*, pp. 30, 167, and 208, 1929.

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APPENDIX I

THE PROVISIONS OF THE TREATY OF VERSAILLES REGARDING THE REPARATION COMMISSION

Article 233. The amount of the above damage for which compensation is to be made by Germany shall be determined by an Inter-Allied Commission, to be called the Reparation Commission and constituted in the form and with the powers set forth hereunder and in Annexes II and VII inclusive hereto

This Commission shall consider the claims and give to the German Government a just opportunity to be heard.

The findings of the Commission as to the amount of damage defined as above shall be concluded and notified to the German Government on or before May 1, 1921, as representing the extent of that Government's obligations.

The Commission shall concurrently draw up a schedule of payments prescribing the time and manner for securing and discharging the entire obligation within a period of thirty years from May 1, 1921. If, however, within the period mentioned, Germany fails to discharge her obligations, any balance remaining unpaid may, within the discretion of the commission, be postponed for settlement in subsequent years, or may be handled otherwise in such manner as the Allied and Associated Governments, acting in accordance with the procedure laid down in this Part of the present Treaty, shall determine

Article 234. The Reparation Commission shall, after May 1, 1921, from time to time, consider the resources and capacity of Germany, and, after giving her representatives a just opportunity to be heard, shall have discretion to extend the date, and to modify the form of payments, such as are to be provided for in accordance with Article 233; but not to cancel any part, except with the specific authority of the several Governments represented upon the Commission.

Article 240. The German Government recognises the Commission provided for by Article 233 as the same may be constituted by the Allied and Associated Governments in accordance with Annex II, and agrees irrevocably to the possession and exercise by such Commission of the power and authority given to it under the present Treaty.

The German Government will supply to the Commission all the information which the Commission may require relative to the financial situation and operations and to the property, productive capacity, and stocks and current production of raw materials and manufactured articles of Germany and her nationals, and, further, any information

relative to military operations which in the judgment of the Commission may be necessary for the assessment of Germany's liability for reparation as defined in Annex I.

The German Government will accord to the members of the Commission and its authorised agents the same rights and immunities as are enjoyed in Germany by duly accredited diplomatic agents of friendly Powers

Germany further agrees to provide for the salaries and expenses of the Commission and of such staff as it may employ.

ANNEX II TO PART VIII, SECTION I

1. The Commission referred to in Article 233 shall be called "The Reparation Commission" and is hereinafter referred to as "the Commission."

2. Delegates to this Commission shall be nominated by the United States of America, Great Britain, France, Italy, Japan, Belgium and the Serb-Croat-Slovene State. Each of these Powers will appoint one Delegate and also one Assistant Delegate, who will take his place in case of illness or necessary absence, but at other times will only have the right to be present at proceedings without taking any part therein.

On no occasion shall the Delegates of more than five of the above Powers have the right to take part in the proceedings of the Commission and to record their votes. The Delegates of the United States, Great Britain, France and Italy shall have this right on all occasions. The Delegate of Belgium shall have this right on all occasions other than those referred to below. The Delegate of Japan shall have this right on occasions when questions relating to damage at sea, and questions arising under Article 260 of Part IX (Financial Clauses) in which Japanese interests are concerned, are under consideration. The Delegate of the Serb-Croat-Slovene State shall have this right when questions relating to Austria, Hungary or Bulgaria are under consideration.

Each Government represented on the Commission shall have the right to withdraw therefrom upon twelve months' notice filed with the Commission and confirmed in the course of the sixth month after the date of the original notice.

3. Such of the other Allied and Associated Powers as may be interested shall have the right to appoint a Delegate to be present and act as Assessor only while their respective claims and interests are under examination or discussion, but without the right to vote.

4. In case of the death, resignation or recall of any Delegate, Assistant Delegate, or Assessor, a successor to him shall be nominated as soon as possible.

5. The Commission will have its principal permanent Bureau in Paris and will hold its first meeting in Paris as soon as practicable after the coming into force of the present Treaty and thereafter will meet in such place or places and at such time as it may deem convenient and as may be necessary for the most expeditious discharge of its duties.

6. At its first meeting the Commission shall elect, from among the Delegates referred to above, a Chairman and a Vice-Chairman, who shall

hold office for one year and shall be eligible for re-election. If a vacancy in the Chairmanship or Vice-Chairmanship should occur during the annual period, the Commission shall proceed to a new election for the remainder of the said period.

7. The Commission is authorised to appoint all necessary officers, agents and employees who may be required for the execution of its functions, and to fix their remuneration; to constitute committees, whose members need not necessarily be members of the Commission, and to take all executive steps necessary for the purpose of discharging its duties; and to delegate authority and discretion to officers, agents and committees.

8. All proceedings of the Commission shall be private, unless, on particular occasions, the Commission shall otherwise determine for special reasons.

9. The Commission shall be required, if the German Government so desire, to hear, within a period which it will fix from time to time, evidence and arguments on the part of Germany on any question connected with her capacity to pay.

10. The Commission shall consider the claims and give to the German Government a just opportunity to be heard, but not to take any part whatever in the decisions of the Commission. The Commission shall afford a similar opportunity to the allies of Germany, when it shall consider that their interests are in question.

11. The Commission shall not be bound by any particular code or rules of law or by any particular rule of evidence or of procedure, but shall be guided by justice, equity and good faith. Its decisions must follow the same principles and rules in all cases where they are applicable. It will establish rules relating to methods of proof of claims. It may act on any trust-worthy modes of computation.

12. The Commission shall have all the powers conferred upon it, and shall exercise all the functions assigned to it, by the present Treaty.

The Commission shall in general have wide latitude as to its control and handling of the whole reparation problem as dealt with in this Part of the present Treaty and shall have authority to interpret its provisions. Subject to the provisions of the present Treaty, the Commission is constituted by the several Allied and Associated Governments referred to in paragraphs 2 and 3 above as the exclusive agency of the said Governments respectively for receiving, selling, holding, and distributing the reparation payments to be made by Germany under this Part of the present Treaty. The Commission must comply with the following conditions and provisions:

(a) Whatever part of the full amount of the proved claims is not paid in gold, or in ships, securities and commodities or otherwise, Germany shall be required, under such considerations as the Commission may determine, to cover by way of guarantee by an equivalent issue of bonds, obligations or otherwise, in order to constitute an acknowledgment of the said part of the debt.

(b) In periodically estimating Germany's capacity to pay, the Commission shall examine the German system of taxation, first, to the end

that the sums for reparation which Germany is required to pay shall become a charge upon all her revenues prior to that for the service or discharge of any domestic loan, and secondly, so as to satisfy itself that, in general, the German scheme of taxation is fully as heavy proportionately as that of any of the Powers represented on the Commission.

(c) In order to facilitate and continue the immediate restoration of the economic life of the Allied and Associated countries, the Commission will as provided in Article 235 take from Germany by way of security for and acknowledgment of her debt a first instalment of gold bearer bonds free of all taxes and charges of every description established or to be established by the Government of the German Empire or of the German States, or by any authority subject to them; these bonds will be delivered on account and in three portions; the Marks gold being payable in conformity with Article 262 of Part IX (Financial Clauses) of the present Treaty as follows:

(1) To be issued forthwith 20,000,000,000 Marks gold bearer bonds, payable not later than May 1, 1921, without interest. There shall be specially applied towards the amortisation of these bonds the payments which Germany is pledged to make in conformity with Article 235, after deduction of the sums used for the reimbursement of expenses of the armies of occupation and for payment of foodstuffs and raw materials. Such bonds as have not been redeemed by May 1, 1921, shall then be exchanged for new bonds of the same type as those provided for below (paragraph 12, c, 2).

(2) To be issued forthwith, further 40,000,000,000 Marks gold bearer bonds, bearing interest at $2\frac{1}{2}$ per cent per annum between 1921 and 1926, and thereafter at 5 per cent per annum with an additional 1 per cent for amortisation beginning in 1926 on the whole amount of the issue.

(3) To be delivered forthwith a covering undertaking in writing to issue when, but not until, the Commission is satisfied that Germany can meet such interest and sinking fund obligations, a further instalment of 40,000,000,000 Marks gold 5 per cent bearer bonds, the time and mode of payment of principal and interest to be determined by the Commission.

The dates for payment of interest, the manner of applying the amortisation fund, and all other questions relating to the issue, management and regulation of the bond issue shall be determined by the Commission from time to time.

Further issues by way of acknowledgment and security may be required as the Commission subsequently determines from time to time.

(d) In the event of bonds, obligations or other evidence of indebtedness issued by Germany by way of security for or acknowledgment of her reparation debt being disposed of outright, not by way of pledge, to persons other than the several Governments in whose favour Germany's original reparation indebtedness was created, an amount of such reparation indebtedness shall be deemed to be extinguished corresponding to the nominal value of the bonds, etc., so disposed of outright, and the obligation of Germany in respect of such bonds shall be confined to her liabilities to the holders of the bonds, as expressed upon their face.

(e) The damage for repairing, reconstructing and rebuilding property in the invaded and devastated districts, including reinstallation of furniture, machinery and other equipment, will be calculated according to the holders at the dates when the work is done.

(f) Decisions of the Commission relating to the total or partial cancellation of the capital or interest of any verified debt of Germany must be accompanied by a statement of its reasons.

13. As to voting, the Commission will observe the following rules:

When a decision of the Commission is taken, the votes of all the Delegates entitled to vote, or in the absence of any of them, of their Assistant Delegates, shall be recorded. Abstention from voting is to be treated as a vote against the proposal under discussion. Assessors have no vote.

On the following questions unanimity is necessary:

(a) Questions involving the sovereignty of any of the Allied and Associated Powers, or the cancellation of the whole or any part of the debt or obligations of Germany;

(b) Questions of determining the amount and conditions of bonds or other obligations to be issued by the German Government and of fixing the time and manner for selling, negotiating or distributing such bonds;

(c) Any postponement, total or partial, beyond the end of 1930, of the payment of instalments falling due between May 1, 1921, and the end of 1926 inclusive;

(d) Any postponement, total or partial, of any installment falling due after 1926 for a period exceeding three years;

(e) Questions of applying in any particular case a method of measuring damages different from that which has been previously applied in a similar case:

(f) Questions of the interpretation of the provisions of this Part of the present Treaty.

All other questions shall be decided by the vote of a majority.

In case of any difference of opinion among the Delegates, which cannot be solved by reference to their Governments, upon the question whether a given case is one which requires a unanimous vote for its decision or not, such difference shall be referred to the immediate arbitration of some impartial person to be agreed upon by their Governments, whose award the Allied and Associated Governments agree to accept.

14. Decisions of the Commission, in accordance with the powers conferred upon it, shall forthwith become binding and may be put into immediate execution without further proceedings.

15. The Commission will issue to each of the interested Powers, in such form as the Commission shall fix:

(1) A certificate stating that it holds for the account of the said Power bonds of the issues mentioned above, the said certificate, on the demand of the Power concerned, being divisible in a number of parts not exceeding five:

(2) From time to time certificates stating the goods delivered by Germany on account of her reparation debt, which it holds for the account of the said Power.

The said certificates shall be registered, and upon notice to the Commission, may be transferred by endorsement.

When bonds are issued for sale or negotiation, and when goods are delivered by the Commission, certificates to an equivalent value must be withdrawn

16. Interest shall be debited to Germany as from May 1, 1921, in respect of her debt as determined by the Commission, after allowing for sums already covered by cash payments or their equivalent, or by bonds issued to the Commission, or under Article 243. The rate of interest shall be 5 per cent, unless the Commission shall determine at some future time that circumstances justify a variation of this rate.

The Commission, in fixing on May 1, 1921, the total amount of the debt of Germany, may take account of interest due on sums arising out of the reparation of material damage as from November 11, 1918, up to May 1, 1921.

17. In case of default by Germany in the performance of any obligation under this Part of the present Treaty, the Commission will forthwith give notice of such default to each of the interested Powers and may make such recommendations as to the action to be taken in consequence of such default as it may think necessary.

18. The measures which the Allied and Associated Powers shall have the right to take, in case of voluntary default by Germany, and which Germany agrees not to regard as acts of war, may include economic and financial prohibitions and reprisals and in general such other measures as the respective Governments may determine to be necessary in the circumstances.

19. Payments required to be made in gold or its equivalent on account of the proved claims of the Allied and Associated Powers may at any time be accepted by the Commission in the form of chattels, properties, commodities, businesses, rights, concessions, within or without German territory, ships, bonds, shares or securities of any kind, or currencies of Germany or other States, the value of such substitutes for gold being fixed at a fair and just amount by the Commission itself.

20. The Commission, in fixing or accepting payment in specified properties or rights, shall have due regard for any legal or equitable interests of the Allied and Associated Powers or of neutral Powers or of their nationals therein.

21. No member of the Commission shall be responsible, except to the Government appointing him, for any action or omission as such member. No one of the Allied or Associated Governments assumes any responsibility in respect of any other Government.

22. Subject to the provisions of the present Treaty this Annex may be amended by the unanimous decision of the Governments represented from time to time upon the Commission.

23. When all the amounts due from Germany and her allies under the present Treaty or the decisions of the Commission have been discharged and all sums received, or their equivalents, shall have been distributed to the Powers interested, the Commission shall be dissolved.

APPENDIX II

CONVENTION FOR THE CREATION OF THE INTERNATIONAL INSTITUTE OF AGRICULTURE, 1905

In a series of meetings held at Rome, from May 29 to June 6, 1905, the delegates of the Powers convened at the Conference for the creation of an International Institute of Agriculture, having agreed upon the text of a Convention to be dated June 7, 1905, and this text having been submitted for approval to the Governments which took part in the said conference, the undersigned, having been furnished with full powers, found in good and due form, have agreed, in the names of their respective Governments, on what follows:

Article I. There is hereby created a permanent international institute of agriculture, having its seat in Rome.

Article II. The international institute of agriculture is to be a government institution, in which each adhering power shall be represented by delegates of its choice.

The institute shall be composed of a general assembly and a permanent committee, the composition and duties of which are defined in the ensuing articles.

Article III. The general assembly of the institute shall be composed of the representatives of the adhering governments. Each nation, whatever be the number of its delegates, shall be entitled to a number of votes in the assembly which shall be determined according to the group to which it belongs, and to which reference will be made in Article X.

Article IV. The general assembly shall elect for each session from among its members a president and two vice-presidents.

The sessions shall take place on dates fixed by the last general assembly and according to a program proposed by the permanent committee and adopted by the adhering governments.

Article V. The general assembly shall exercise supreme control over the international institute of agriculture

It shall approve the projects prepared by the permanent committee regarding the organization and internal workings of the institute. It shall fix the total amount of expenditures and audit and approve the accounts.

It shall submit to the approval of the adhering governments modifications of any nature involving an increase in expenditure or an enlargement of the functions of the institute. It shall set the date for holding the sessions. It shall prepare its regulations.

The presence at the general assemblies of delegates representing two-thirds of the adhering nations shall be required in order to render the deliberations valid.

Article VI. The executive power of the institute is intrusted to the permanent committee, which, under the direction and control of the general assembly, shall carry out the decisions of the latter and prepare propositions to submit to it.

Article VII. The permanent committee shall be composed of members designated by the respective governments. Each adhering nation shall be represented in the permanent committee by one member. However, the representation of one nation may be intrusted to a delegate of another adhering nation, provided that the actual number of members shall not be less than fifteen.

The conditions of voting in the permanent committee shall be the same as those indicated in Article III for the general assemblies.

Article VIII. The permanent committee shall elect from among its members for a period of three years a president and a vice-president, who may be reelected. It shall prepare its internal regulations, vote the budget of the institute within the limits of the funds placed at its disposal by the general assembly, and appoint and remove the officials and employees of its office.

The general secretary of the permanent committee shall act as secretary of the assembly.

Article IX. The institute, confining its operations within an international sphere, shall—

(a) Collect, study, and publish as promptly as possible statistical, technical, or economic information concerning farming, both vegetable and animal products, the commerce in agricultural products, and the prices prevailing in the various markets;

(b) Communicate to parties interested, also as promptly as possible, all the information just referred to;

(c) Indicate the wages paid for farm work;

(d) Make known the new diseases of vegetables which may appear in any part of the world, showing the territories infected, the progress of the disease, and, if possible, the remedies which are effective in combating them;

(e) Study questions concerning agricultural cooperation, insurance, and credit in all their aspects; collect and publish information which might be useful in the various countries in the organization of works connected with agricultural cooperation, insurance, and credit;

(f) Submit to the approval of the governments, if there is occasion for it, measures for the protection of the common interests of farmers and for the improvement of their condition, after having utilized all the necessary sources of information, such as the wishes expressed by international or other agricultural congresses or congresses of sciences applied to agriculture, agricultural societies, academies, learned bodies, etc.

All questions concerning the economic interests, the legislation, and the administration of a particular nation shall be excluded from the consideration of the institute.

Article X. The nations adhering to the institute shall be classed in five groups, according to the place which each of them thinks it ought to occupy.

The number of votes which each nation shall have and the number of units of assessment shall be established according to the following gradations:

	Numbers of votes	Units of assessment
I	5	16
II	4	8
III	3	4
IV	2	2
V	1	1

In any event the contribution due per unit of assessment shall never exceed a maximum of 2,500 francs

As a temporary provision the assessment for the first two years shall not exceed 1,500 francs per unit.

Colonies may, at the request of the nations to which they belong, be admitted to form part of the institute on the same conditions as the independent nations.

Article XI. The present Convention shall be ratified and the ratifications exchanged as soon as possible by depositing them with the Italian Government.

In faith whereof the respective Plenipotentiaries have signed the present Convention and have hereunto affixed their seals.

Done at Rome the 7th of June one thousand nine hundred and five, in a single original, deposited with the Ministry of Foreign Affairs of Italy, of which certified copies shall be sent through the diplomatic channel to the contracting States.

APPENDIX III

CONVENTION OF 1875 CREATING THE BUREAU OF WEIGHTS AND MEASURES, AS AMENDED IN 1921

Article 1 The high contracting parties engage to establish and maintain, at their common expense, a scientific and permanent international bureau of weights and measures, the location of which shall be at Paris

Article 2. The French Government shall take all the necessary measures to facilitate the purchase, or, if expedient, the construction, of a building which shall be especially devoted to this purpose, subject to the conditions stated in the regulations which are subjoined to this convention

Article 3. The operation of the international bureau shall be under the exclusive direction and supervision of an international committee of weights and measures, which latter shall be under the control of a general conference for weights and measures, to be composed of the delegates of all the contracting governments

Article 4 The general conference for weights and measures shall be presided over by the president for the time being of the Paris Academy of Sciences

Article 5. The organization of the bureau, as well as the formation and the powers of the international committee, and of the general conference for weights and measures, are established by the regulations subjoined to this convention.

Article 6. The international bureau of weights and measures shall be charged with the following duties:

1st All comparisons and verifications of the new prototypes of the meter and kilogram

2d The custody of the international prototypes

3d The periodical comparison of the national standards with the international prototypes and with their test copies, as well as comparisons of the standard thermometers.

4th. The comparison of the prototypes with the fundamental standards of non-metrical weights and measures used in different countries for scientific purposes.

5th. The sealing and comparison of geodesic measuring-bars.

6th. The comparison of standards and scales of precision, the verification of which may be requested by governments or by scientific societies, or even by constructors or men of science.

Article 7. After the Committee shall have proceeded with the work of coordinating the measures relative to electric units and when the general

conference shall have so decided by a unanimous vote, the Bureau will have charge of the establishment and keeping of the standards of the electric units and their test copies and also of comparing with those standards the national or other standards of precision.

The Bureau is also charged with the duty of making the determination relative to physical constants, a more accurate knowledge of which may be useful in increasing precision and further insuring uniformity in the provinces to which the above mentioned units belong (Article 6 and 1st paragraph of Article 7).

It is finally charged with the duty of coordinating similar determinations effected in other institutions.

Article 8. The international prototypes and standards and also their test copies shall be deposited in the Bureau; access to the deposit shall be solely reserved for the international committee.

Article 9. The entire expense of the construction and outfit of the international bureau of weights and measures, together with the annual cost of its maintenance and the expenses of the committee, shall be defrayed by contributions from the contracting states, the amount of which shall be computed in proportion to the actual population of each.

Article 10. The amounts representing the contributions of each of the contracting states shall be paid at the beginning of each year, through the ministry of foreign affairs of France, into the *Caisse de depots et consignations* at Paris, whence they may be drawn as occasion may require, upon the order of the director of the bureau.

Article 11. Those governments which may take advantage of the privilege, open to every state, of acceding to this convention, shall be required to pay a contribution, the amount of which shall be fixed by the committee on the basis established in article 9, and which shall be devoted to the improvements of the scientific apparatus of the bureau.

Article 12. The high contracting parties reserve to themselves the power of introducing into the present convention, by common consent, any modifications the propriety of which may have been shown by experience.

Article 13. At the expiration of twelve years this convention may be abrogated by any one of the high contracting parties, so far as it is concerned.

Any government which may avail itself, of the right of terminating this convention, so far as it is concerned, shall be required to give notice of its intentions one year in advance, and by so doing shall renounce all rights of joint ownership in the international prototypes and in the bureau.

Article 14. This Convention shall be ratified according to the constitutional laws of each state, and the ratifications shall be exchanged in Paris within six months, or sooner, if possible.

It shall take effect on the first day of January, 1876.

In testimony whereof the respective plenipotentiaries have attached their signatures and have hereunto affixed their seals of arms.

Done at Paris, May 20, 1875.

APPENDIX IV

TEST OF THE MANDATE FOR PALESTINE

The Council of the League of Nations

Whereas the Principal Allied Powers have agreed, for the purpose of giving effect to the provisions of Article 22 of the Covenant of the League of Nations, to entrust to a Mandatory selected by the said Powers the administration of the territory of Palestine, which formerly belonged to the Turkish Empire, within such boundaries as may be fixed by them; and

Whereas the Principal Allied Powers have also agreed that the Mandatory should be responsible for putting into effect the declaration originally made on November 2nd, 1917, by the Government of His Britannic Majesty, and adopted by the said Powers, in favour of the establishment in Palestine of a national home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country; and

Whereas recognition has thereby been given to the historical connection of the Jewish people with Palestine and to the grounds for reconstituting their national home in that country; and

Whereas the Principal Allied Powers have selected His Britannic Majesty as the Mandatory for Palestine; and

Whereas the mandate in respect of Palestine has been formulated in the following terms and submitted to the Council of the League for approval; and

Whereas His Britannic Majesty has accepted the mandate in respect of Palestine and undertaken to exercise it on behalf of the League of Nations in conformity with the following provisions; and

Whereas by the afore-mentioned Article 22 (paragraph 8), it is provided that the degree of authority, control or administration to be exercised by the Mandatory, not having been previously agreed upon by the Members of the League, shall be explicitly defined by the Council of the League of Nations:

Confirming the said mandate, defines its terms as follows:

Article 1. The Mandatory shall have full powers of legislation and of administration, save as they may be limited by the terms of this mandate.

Article 2. The Mandatory shall be responsible for placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish national home, as laid down in the preamble, and the development of self-governing institutions, and also for safe-

guarding the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion

Article 3. The Mandatory shall, so far as circumstances permit, encourage local autonomy.

Article 4. An appropriate Jewish agency shall be recognised as a public body for the purpose of advising and co-operating with the Administration of Palestine in such economic, social and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, and, subject always to the control of the Administration, to assist and take part in the development of the country.

The Zionist organization, so long as its organization and constitution are in the opinion of the Mandatory appropriate, shall be recognised as such agency. It shall take steps in consultation with His Britannic Majesty's Government to secure the co-operation of all Jews who are willing to assist in the establishment of the Jewish national home.

Article 5. The Mandatory shall be responsible for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under the control of, the Government of any foreign Power.

Article 6. The Administration of Palestine, while ensuring that the rights and position of other sections of the population are not prejudiced, shall facilitate Jewish immigration under suitable conditions and shall encourage, in co-operation with the Jewish agency referred to in Article 4, close settlement by Jews on the land, including State lands and waste lands not required for public purposes.

Article 7. The Administration of Palestine shall be responsible for enacting a nationality law. There shall be included in this law provisions framed so as to facilitate the acquisition of Palestinian citizenship by Jews who take up their permanent residence in Palestine.

Article 8. The privileges and immunities of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by Capitulation or usage in the Ottoman Empire, shall not be applicable in Palestine.

Unless the Powers whose nationals enjoyed the afore-mentioned privileges and immunities on August 1st, 1914, shall have previously renounced the right to their re-establishment, or shall have agreed to their non-application for a specified period, these privileges and immunities shall, at the expiration of the mandate, be immediately re-established in their entirety or with such modifications as may have been agreed upon between the Powers concerned.

Article 9. The Mandatory shall be responsible for seeing that the judicial system established in Palestine shall assure to foreigners, as well as to natives, a complete guarantee of their rights.

Respect for the personal status of the various peoples and communities and for their religious interests shall be fully guaranteed. In particular, the control and administration of Wakfs shall be exercised in accordance with religious law and the dispositions of the founders

Article 10. Pending the making of special extradition agreements relating to Palestine, the extradition treaties in force between the Mandatory and other foreign Powers shall apply to Palestine.

Article 11. The Administration of Palestine shall take all necessary measures to safeguard the interests of the community in connection with the development of the country, and, subject to any international obligations accepted by the Mandatory, shall have full power to provide for public ownership or control of any of the natural resources of the country or of the public works, services and utilities established or to be established therein. It shall introduce a land system appropriate to the needs of the country, having regard, among other things, to the desirability of promoting the close settlement and intensive cultivation of the land.

The Administration may arrange with the Jewish agency mentioned in Article 4 to construct or operate, upon fair and equitable terms, any public works, services and utilities, and to develop any of the natural resources of the country, in so far as these matters are not directly undertaken by the Administration. Any such arrangements shall provide that no profits distributed by such agency, directly or indirectly, shall exceed a reasonable rate of interest on the capital, and any further profits shall be utilised by it for the benefit of the country in a manner approved by the Administration.

Article 12. The Mandatory shall be entrusted with the control of the foreign relations of Palestine and the right to issue exequaturs to consuls appointed by foreign Powers. He shall also be entitled to afford diplomatic and consular protection to citizens of Palestine when outside its territorial limits.

Article 13. All responsibility in connection with the Holy Places and religious buildings or sites in Palestine, including that of preserving existing rights and of securing free access to the Holy Places, religious buildings and sites and the free exercise of worship, while ensuring the requirements of public order and decorum, is assumed by the Mandatory, who shall be responsible solely to the League of Nations in all matters connected herewith, provided that nothing in this article shall prevent the Mandatory from entering into such arrangements as he may deem reasonable with the Administration for the purpose of carrying the provisions of this article into effect; and provided also that nothing in this mandate shall be construed as conferring upon the Mandatory authority to interfere with the fabric or the management of purely Moslem sacred shrines, the immunities of which are guaranteed.

Article 14. A special Commission shall be appointed by the Mandatory to study, define and determine the rights and claims in connection with the Holy Places and the rights and claims relating to the different religious communities in Palestine. The method of nomination, the composition and the functions of this Commission shall be submitted to the Council of the League for its approval, and the Commission shall not be appointed or enter upon its functions without the approval of the Council.

Article 15. The Mandatory shall see that complete freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, are ensured to all. No discrimination of any kind shall be made between the inhabitants of Palestine on the ground of race, religion or language. No person shall be excluded from Palestine on the sole ground of his religious belief.

The right of each community to maintain its own school for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the Administration may impose, shall not be denied or impaired.

Article 16. The Mandatory shall be responsible for exercising such supervision over religious or eleemosynary bodies of all faiths in Palestine as may be required for the maintenance of public order and good government. Subject to such supervision, no measures shall be taken in Palestine to obstruct or interfere with the enterprise of such bodies or to discriminate against any representative or member of them on the ground of his religion or nationality.

Article 17. The Administration of Palestine may organise on a voluntary basis the forces necessary for the preservation of peace and order, and also for the defence of the country, subject, however, to the supervision of the Mandatory, but shall not use them for purposes other than those above specified save with the consent of the Mandatory. Except for such purposes, no military, naval or air forces shall be raised or maintained by the Administration of Palestine.

Nothing in this article shall preclude the Administration of Palestine from contributing to the cost of the maintenance of the forces of the Mandatory in Palestine.

The Mandatory shall be entitled at all times to use the roads, railways and ports of Palestine for the movement of armed forces and the carriage of fuel and supplies.

Article 18. The Mandatory shall see that there is no discrimination in Palestine against the nationals of any State Member of the League of Nations (including companies incorporated under its laws) as compared with those of the Mandatory of any foreign State in matters concerning taxation, commerce or navigation, the exercise of industries or professions, or in the treatment of merchant vessels or civil aircraft. Similarly, there shall be no discrimination in Palestine against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

Subject as aforesaid and to the other provisions of this mandate, the Administration of Palestine may, on the advice of the Mandatory, impose such taxes and customs duties as it may consider necessary, and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population. It may also, on the advice of the Mandatory, conclude a special customs agreement with any State the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia.

Article 19. The Mandatory shall adhere on behalf of the Administration of Palestine to any general international conventions already existing or which may be concluded hereafter with the approval of the League of Nations, respecting the slave traffic, the traffic in arms and ammunition, or the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, aerial navigation and postal, telegraphic and wireless communication or literary, artistic or industrial property.

Article 20. The Mandatory shall co-operate on behalf of the Administration of Palestine, so far as religious, social and other conditions may permit, in the execution of any common policy adopted by the League of Nations for preventing and combating disease, including diseases of plants and animals.

Article 21. The Mandatory shall secure the enactment within twelve months from this date, and shall ensure the execution of a Law of Antiquities based on the following rules. This law shall ensure equality of treatment in the matter of excavations and archaeological research to the nations of all States Members of the League of Nations

(1) 'Antiquity' means any construction or any product of human activity earlier than the year A. D. 1700

(2) The law for the protection of antiquities shall proceed by encouragement rather than by threat.

Any person who, having discovered an antiquity without being furnished with the authorisation referred to in paragraph 5, reports the same to an official of the competent Department, shall be rewarded according to the value of the discovery.

(3) No antiquity may be disposed of except to the competent Department, unless this Department renounces the acquisition of any such antiquity.

No antiquity may leave the country without an export licence from the said Department.

(4) Any person who maliciously or negligently destroys or damages an antiquity shall be liable to a penalty to be fixed.

(5) No clearing of ground or digging with the object of finding antiquities shall be permitted, under penalty of fine, except to persons authorised by the competent Department.

(6) Equitable terms shall be fixed for expropriation, temporary or permanent, of lands which might be of historical or archaeological interest.

(7) Authorisation to excavate shall only be granted to persons who show sufficient guarantees of archaeological experience. The Administration of Palestine shall not, in granting these authorisations, act in such a way as to exclude scholars of any nation without good grounds.

(8) The proceeds of excavations may be divided between the excavator and the competent Department in a proportion fixed by that Department. If division seems impossible for scientific reasons, the excavator shall receive a fair indemnity in lieu of a part of the find.

Article 22. English, Arabic and Hebrew shall be the official languages of Palestine. Any statement or inscription in Arabic on stamps or

money in Palestine shall be repeated in Hebrew, and any statement or inscription in Hebrew shall be repeated in Arabic.

Article 23. The Administration of Palestine shall recognise the holy days of the respective communities in Palestine as legal days of rest for the members of such communities.

Article 24. The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council as to the measures taken during the year to carry out the provisions of the mandate. Copies of all laws and regulations promulgated or issued during the year shall be communicated with the report.

Article 25. In the territories lying between the Jordan and the eastern boundary of Palestine as ultimately determined, the Mandatory shall be entitled, with the consent of the Council of the League of Nations, to postpone or withhold application of such provisions of this mandate as he may consider inapplicable to the existing local conditions, and to make such provision for the administration of the territories as he may consider suitable to those conditions, provided that no action shall be taken which is inconsistent with the provisions of Articles 15, 16 and 18.

Article 26. The Mandatory agrees that, if any dispute whatever should arise between the Mandatory and another Member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

Article 27. The consent of the Council of the League of Nations is required for any modification of the terms of this mandate.

Article 28. In the event of the termination of the mandate hereby conferred upon the Mandatory, the Council of the League of Nations shall make such arrangements as may be deemed necessary for safeguarding in perpetuity, under guarantee of the League, the rights secured by Articles 13 and 14, and shall use its influence for securing, under the guarantee of the League, that the Government of Palestine will fully honour the financial obligations legitimately incurred by the Administration of Palestine during the period of the mandate, including the rights of public servants to pensions or gratuities.

The present instrument shall be deposited in original in the archives of the League of Nations and certified copies shall be forwarded by the Secretary-General of the League of Nations to all Members of the League.

Done at London the twenty-fourth day of July, one thousand nine hundred and twenty-two.

APPENDIX V

EXTRACTS FROM THE CONVENTION REGARDING THE ORGANIZATION OF THE STATUTE OF THE TANGIER ZONE (AS REVISED IN 1928)

Article 1. In conformity with the provisions of Article 1 of the Protectorate Treaty of March 30th, 1912, and of Article 7 of the Franco-Spanish Convention regarding Morocco of November 27th, 1912, the contracting governments agree that in the region defined in Article 2 hereunder and styled the Tangier Zone the maintenance of public order and the general administration of the Zone shall, under powers delegated by His Shereefian Majesty, be entrusted to the authorities and bodies hereafter denominated.

Article 2. The Tangier Zone shall lie within the boundaries fixed by paragraph 2 of Article 7 of the Franco-Spanish Convention of November 27th, 1912.

Article 3. The Tangier Zone shall be placed under a régime of permanent neutrality. Consequently, no act of hostility on land, on sea or in the air shall be committed by or against the Zone or within its boundaries.

No military establishment, whether land, naval or aeronautical, no base of operations, no installation which can be utilized for warlike purposes, shall be either created or maintained in the Zone.

All stocks of munitions and of war material are prohibited.

Such stocks as may be constituted by the Administration of the Zone to meet the requirements of local defence against the incursions of hostile tribes are however permitted. The Administration may also, for the same purpose, take all measures other than a concentration of air forces, and may even erect minor defensive works and fortifications on the land frontier

The military stores and fortifications so permitted will be subject to inspection by the officers mentioned in the last paragraph of the present article.

Civil aerodromes established within the Tangier Zone will be similarly subject to inspection by the above-mentioned officers.

No aeronautical stores shall exceed the quantities necessary for civil and commercial aviation.

All civil or commercial aviation to, from or within the Zone of Tangier shall be subject to the rules and provisions of the Convention for the Regulation of Aerial Navigation.

Supply columns and troops proceeding to or coming from the French or Spanish Zones may, however, after previous notification to the

administrator of the Tangier Zone, use the port of Tangier and the means of communication connecting it with their respective Zones, in passing to and from those Zones

The French and Spanish Governments undertake not to make use of this power except in case of real necessity and then only for the period strictly necessary for the embarkation or disembarkation of such troops and their passage through the Zone. In no case shall this period exceed forty-eight hours for an armed force

No special tax or transit due shall be levied in respect of such passage.

The authorization of the Administration of Tangier is not necessary for the visits of warships, but previous notification of such visits shall nevertheless be given to the Administration if circumstances permit.

The British, Spanish, French, and Italian Governments have the right to attach to their consulates at Tangier an officer charged with the duty of keeping them informed as to the observance of the foregoing obligations of military order.

Article 10. Any agitation, propaganda or conspiracy against the established order in any of the Zones of Morocco or in any foreign country is prohibited.

Offenders, whosoever they may be, shall be brought before the Mixed Court of Tangier.

A mixed intelligence bureau composed of a senior Spanish officer, who shall be head of the bureau, and of a French subaltern officer, who shall be assistant to the head of the bureau, and of a Spanish subaltern officer, shall be established at Tangier and entrusted with the task of watching all matters affecting the security of Tangier in relation to that of the neighboring Zones and of foreign countries

In view of the special importance which the proceedings of this bureau will have for the other Zones of Morocco, its cost will be entirely defrayed by the Spanish and French Governments.

The head of the bureau will fulfil the functions and will bear the title of Inspector-General of Security in the Tangier Zone and as such his appointment must receive the concurrence of the Committee of Control.

Without intervening in the work of the services of the Tangier Administration, the Inspector-General of Security will be the counsellor of the authorities of the Zone, mentioned below in the present article, for the application of Article 3, paragraph 1, of the present convention in so far as it concerns the security of Tangier in relation to that of the neighboring Zones and foreign countries, for the application of Article 10 dealing with subversive propaganda, contraband, and in a general manner for the application of the existing provisions concerning undesirables and conspiracy directed against the established order both in Morocco and in foreign countries.

He will communicate his information to the Administrator in order to enable the latter to take the appropriate measures of surveillance or to order the necessary investigation.

However, if the facts of which he has knowledge appear to him to have a definitely criminal character, he may lay information direct with the public prosecutor of the Mixed Tribunal.

The Inspector-General of Security is authorized to present to the Committee of Control all observations, suggestions and advice which he may think it his duty to offer concerning the organization of the services of the Administration entrusted with the application of Article 3, paragraph 1, and of Article 10 of the present convention.

The various authorities of the Tangier Zone mentioned above, with whom in virtue of the present article the Inspector-General of Security is placed in contact, shall facilitate his mission and shall in particular indicate to him the action, if any, which has been taken as the result of his representations. The Committee of Control will serve in this respect as the intermediary between the authorities of the Zone and the Inspector-General.

Article 29. His Shereefian Majesty will nominate a Mendoub to represent him at Tangier. The Mendoub will promulgate the legislation passed by the International Assembly and countersigned by the President of the Committee of Control. He will directly administer the native population. He will fulfil the functions of Pasha and exercise those administrative and judicial powers which fall normally under this head within the Empire. He will have the right of expulsion as regards Moroccan subjects, and will exercise the same right in the case of persons justiciable by the Mixed Court on a decision to that effect by a full meeting of the titular members of the court.

In the case of an individual of a nationality not represented on the court, his consul will have the right to take part in the discussions.

Expulsion must be ordered if it is demanded by the consul of the individual concerned.

The Mendoub shall quote the decision of the court in the recitals of the expulsion order.

It will be his duty to ensure the observance and execution by the persons whom he administers of the general clauses of the statute of the Zone, and especially to ensure by the administrative and judicial means at his disposal the exact payment of the duties and taxes due from the native population.

The Mendoub shall preside over the International Legislative Assembly and may take part in its deliberations but will not vote.

Article 30. The Committee of Control will consist of the consuls *de carrière* of the Powers signatories of the Act of Algeciras or of their substitutes *de carrière*.

The functions of President of the Committee of Control will be performed by the consuls of the Powers in rotation for one year each. These functions will consist in convening the meetings of the committee, in bringing before it all communications addressed to it, and in executing all business within its competence.

The first consul to fulfil the functions of President will be selected by lot. Thereafter the consuls will assume the presidency in the alphabetical order of the Powers represented on the committee. Should a consul whose turn it is to preside be unable for any reason to assume office or carry out its functions, the latter will be exercised by the consul of the

Power next in alphabetical order. The same procedure will apply to the appointment of a substitute in the event of the President's absence on account of illness or other cause.

Each member of the Committee of Control will have only one vote.

It will be the duty of the Committee of Control to ensure the observance of the *régime* of economic equality and the provisions of the statute of Tangier.

The President either of his own initiative or on the demand of one of its members will convene the Committee of Control and lay before it such matters as are within its competence.

Article 31. The Committee of Control shall receive through the Administrator within the space of eight days the texts of the laws and regulations voted by the Assembly.

Within fifteen days from the date of such notification the Committee of Control will have the right to veto the promulgation of any enactment.

In such cases its decisions shall be taken by a majority vote. The non-observance of the provisions and principles of the statute must be recited in the decision.

In the absence of any stipulation to the contrary, a majority vote will constitute a decision of the Committee of Control.

In the case of equality there must be a second discussion within a period of eight days.

If at the second discussion there be no majority, the President's vote will be decisive.

The decision of the committee will be notified to the Mendoub by the President.

Article 32. The legislative powers are vested in an International Legislative Assembly under the presidency of the Mendoub and composed of the representatives of the foreign and native communities.

The codes enumerated in Article 48 below may, however, be abrogated or modified only after agreement between the French and Spanish Zones of the Shereefian Empire and the Committee of Control, whose vote in such cases must be unanimous.

The regulations and fiscal enactments enumerated in the following article may not be abrogated or modified during the first period of two years. On the expiry of this period they may be abrogated or modified with the assent of the Committee of Control on a three-fourths majority vote.

The codes as well as the above-mentioned legislative and fiscal enactments shall be drawn up by commissions of British, Spanish and French experts, whose labors must be completed within a period of three months dating from the signature of the present convention.

Article 33. The regulations and fiscal enactments referred to in paragraph 3 of the preceding article are as follows:

Dahir relating to associations;

Dahir regulating the opening and running of liquor shops;

Dahir regulating the practice of the professions of doctor, chemist, dentist, veterinary surgeon and midwife;

Dahir regulating the opening and working of unhygienic, obnoxious or dangerous establishments.

Dahir relating to the protection of historical monuments and sites.

Dahir relating to street alignment, house-planning, servitudes and road dues.

Dahir laying down rules for expropriation and temporary occupation for purposes of public utility;

Statement of the general conditions to be imposed upon contractors for public works

Dahir laying down the conditions for the temporary occupation of portions of state property.

Dahir laying down the procedure for the delimitation of private state property.

Dahir relating to the working of quarries.

Dahir enforcing the Mining Regulations of 1914

Regulations relating to public accountancy.

Dahir fixing the duty and laying down regulations regarding alcohol.

Dahir regulating consumption duties on sugars, principal colonial products and their derivatives (tea, coffee, cocoa, vanilla, etc.), candles, and beers.

Dahir relating to registration (rights of transfer) and stamp.

Dahir laying down the conditions of transfers of landed property in accordance with the common law (Shra'a).

Article 34. In consideration of the number of nationals, the volume of commerce, the property interests and the importance of local trade at Tangier of the several Powers signatories of the Act of Algeciras, the International Legislative Assembly shall be composed of —

4 French members,

4 Spanish members,

3 British members,

3 Italian members,

1 American member,

1 Belgian member,

1 Dutch member,

1 Portuguese member,

nominated by their respective consulates, and in addition—

6 Mussulman subjects of the Sultan nominated by the Mendoub, and

3 Jewish subjects of the Sultan nominated by the Mendoub and chosen from a list of nine names submitted by the Jewish community.

The Assembly shall appoint from among its members four vice-presidents, a French citizen, a British subject, a Spanish subject, and an Italian citizen, responsible for assisting the Mendoub in presiding over the Assembly and of acting as deputy for him in his absence.

Article 35. The Administrator will carry out the decisions of the Assembly and direct the International Administration of the Zone.

The Administrator will have under his orders three assistant administrators and two engineers.

One of the assistant administrators, with the title of Director, will be especially responsible for the services of health and relief; one assistant administrator, with the title of Director, will be especially responsible for the financial services; one assistant administrator, with the title of Director, will be especially responsible for the services relating to the administration of justice.

For the first period of six years the Administrator will be of French nationality; the assistant administrator responsible for the services of health and relief will be of Spanish nationality; the assistant administrator responsible for the financial services will be of British nationality, the assistant administrator responsible for the services relating to the administration of justice will be of Italian nationality. The Administrator, the three assistant administrators and the two engineers will be appointed by His Shereefian Majesty at the instance of the Committee of Control, to whom they will be presented by their respective consulates.

After this first period of six years, the Assembly will appoint the Administrator and the assistant administrators from among the nationals of the Powers signatories of the Act of Algeciras. The four posts must, however, be conferred on persons of different nationality.

The Committee of Control may if necessary, on a three-fourths majority vote, present a demand accompanied by a statement of the grounds on which it is based for the removal of the Administrator to his Shereefian Majesty who will appoint a candidate of the same nationality.

If the collaboration of one of the assistant administrators or of one of the two engineers does not give satisfaction to the Administrator, the latter will lodge a demand, accompanied by a statement of the grounds on which it is based, for his removal with the Committee of Control who will present to His Shereefian Majesty a candidate of the same nationality.

Article 36. The salaries of the officials will be fixed by the Assembly.

For a first period of six years, however, the salaries of the administrator, the assistant administrators and the engineers will be fixed as follows:

Administrator	.	50,000	Moroccan francs.
Assistant Administrator	.	40,000	Moroccan francs.
Engineer	.	38,000	Moroccan francs.

The Administration will also provide housing accommodation for these officials.

During the first period of six years, referred to above, these salaries may, as an exceptional measure, be modified at the request of the Assembly on a decision accompanied by a statement of the grounds on which it is based of the Committee of Control on a three-fourths majority.

Article 37. The recruitment of the officials of the International Administration, other than those specified in Article 36 above, shall be effected by a committee presided over by the Administrator and composed of the four vice-presidents of the Assembly and of the head of the service concerned.

The committee must satisfy itself, by enquiring of the consul of the nationality concerned, that the candidate has a satisfactory record. The required information must be given within a month from the date on which it is sought. Otherwise the committee may proceed with the appointment of the candidate.

The candidates selected will be appointed by the Administrator with the previous approval of the Assembly.

Article 38. The proceeds of the "Taxe Speciale" accruing to the Tangier Zone shall be paid into the State Bank on account of the Zone.

Shall be a first charge on these receipts:

the works and upkeep in the Tangier Zone of the roads from Tangier to Tetuan and from Tangier to Larache and Rabat;

the improvement and upkeep of the maritime lighting and buoyage other than the port lights and buoys

Any available surplus shall be applied, in accordance with Article 66 of the Act of Algeciras, to the cost of the upkeep and of the carrying out of public works for the development of navigation and commerce in general.

Article 39. The administration of the *Contrôle de la Dette* shall retain the rights, privileges and obligations accruing to it under the convention of March 21, 1910.

The administration shall request the Shereefian Government to nominate the head of the customs service of Tangier, who will be dependent on the Moroccan customs Administration.

The customs and excise service of Tangier shall levy and collect the custom duties on goods imported for the consumption of the Zone and on goods exported from the said Zone.

It shall likewise levy and collect the dues and profits of the tobacco monopoly and the 2½ per cent tax established by the Act of Algeciras under the name of "Taxe Speciale des Travaux Publics."

It shall also levy and collect the various consumption taxes.

It shall not levy the other taxes and revenues, viz : the urban tax, the gate-tax, the state property revenues, the proceeds of the *mostafadat*.

The custom and excise service shall appropriate from its receipts, after providing for its own administrative expenses, the sums required to meet the various fixed charges on the Tangier Zone which it will remit at the due dates to the proper quarters, viz.:

- (1) to the representatives of the bond-holders of the 1904 and 1910 loans; the share of Tangier in the service of those loans;
- (2) to the Shereefian State;
the custom duties paid by the Administration of the tobacco monopoly in respect of tobacco not consumed in the Tangier Zone;
- (3) to the Tangier-Fez Railway;
the share of Tangier in the guarantee of its loans;
- (4) to the Tangier Port Company;
the annuities of the service of its loans.

The custom and excise service shall remit the proceeds of the "Taxe Speciale" to the State Bank of Morocco.

If the receipts be less than the total of the above-mentioned charges, the deficit shall be a prior charge on the total revenues of Tangier or, if needs be, on its reserve funds;

If they be in excess, the surplus shall be deposited with the State Bank to the account of the Administration of the Zone.

The budget of the custom service will be presented annually before November 15 to the Administrator, who will submit it to the Assembly for approval. In the event of disagreement the dispute between the Administration of the Zone and the custom service will be arbitrated by the Committee of Control whose decisions will be taken on a majority vote. A majority of three-fourths is necessary for disputes relating to the creation or suppression of posts.

If the approval of the budget of the custom service has not been given by January 1, the provisions of the previous budget shall be applied to the new year of account.

The Committee of Control may, if needs be, and on a three-fourths majority, lodge with the Shereefian Government a demand, accompanied by a statement of the grounds on which it is based, for the removal of the head of the custom service.

Article 40 Subject to the conditions laid down below the Shereefian Government shall:

(1) transfer to the Tangier Zone the rights and obligations accruing to it from the deed of the port concession of June 21, 1921.

(2) transfer to the Tangier Zone, for the benefit of that zone, its right of taking over the concession in the event of forfeiture or expropriation of the concession or on its expiry.

The Zone will assume in their entirety the obligations devolving on the Shereefian Government under the conditions of the concession. The annuities of the capital guaranteed by the Shereefian Government shall be met by the Zone as a first charge on the custom receipts and the profits on the working of the port and on the port lands.

There shall be submitted to the approval of the Shereefian Government:

- (a) any modification of the conditions of the concession and of the statutes of the port concessionary company;
- (b) any partial or total transfer of the concern;
- (c) forfeiture;
- (d) expropriation.

As long as the guarantee of the Shereefian Government remains in force, there shall likewise be submitted to the approval of that government

- (a) any change from registered shares to bearer shares;
- (b) any agreement, disposition or arrangement allowed under the conditions of the concession and entailing an increase of the capital furnished by the company as laid down in Article 10 of the Port Convention.

The approval of the Shereefian Government may be given in its name by its representative on the Port Commission.

In default of the fulfilment by the Administration of Tangier of the obligations referred to in the preceding paragraphs, the Shereefian Government will resume the sole financial control of the concession.

If called upon to do so by the Administration of Tangier, the Shereefian Government will exercise the right which it possesses under the last paragraph of Article 6 of the Convention relating to the Tangier Port Concession. It is understood that the said Administration will be under the express obligation of refunding to the Shereefian Government any expenses incurred through the exercise of this right.

If called upon to do so by the Administration of Tangier the Shereefian Government will likewise exercise the right which it possesses under Article 6 of the Convention relating to the Tangier Port Concession to accelerate the redemption of the guaranteed bonds, in such measure as the said Administration shall provide from its own resources for the cost of such acceleration.

Both the shares and bonds issued by the concessionary company shall be exempt in the Tangier Zone from all duties, taxes and contributions.

Article 41. There shall be constituted a Port Commission whose functions will be those of the *Service du Contrôle* as defined in the deed of concession and subject to the provisions of Article 40 above.

So far as the execution of works of construction and upkeep are concerned, the commission will take its decisions on the advice of the engineer responsible for the state works of the Zone and for the superintendence of the port works, to whom the technical responsibility belongs. In the event of the commission being in disagreement with the engineer, the latter's opinion shall be annexed to the minutes of the proceedings.

Under the authority of the Committee of Control the commission shall ensure the observance of the régime of economic equality in the working of the port.

The commission shall be composed of.

- a representative of the Shereefian Government;
- a representative of the Legislative Assembly;
- a representative of the Committee of Control.

The engineer will attend its meetings with a right to take part in the discussions and to vote.

The Administrator of the Zone has the right to attend the meetings of the commission in a consultative capacity.

A representative of the commercial interests of Tangier chosen by the chambers of commerce and the directors or heads of service of the International Administration shall also have the right to be summoned in a consultative capacity for the discussion of any matters which concern them.

The local manager of the concessionary company may also be heard.

On application to that effect the consuls shall also be heard on questions which concern them.

In addition to the periodical meetings which it may decide to hold, the commission may be convened on the initiative of one of its members, and in case of urgency on that of the Administrator of the Zone.

The rules of procedure of the commission shall be approved by the Committee of Control.

The commission will appoint its president. In default of such appointment the functions of president will be performed by each of the three members in rotation.

Contracts for supplies of imported materials as well as plant (with the exception of any supplies or purchases of material subject to a contract awarded after public tender) shall be put up to competition under the control of the Port Commission.

In the case of supplies of a cost exceeding 20,000 francs but not exceeding 100,000 francs the commission shall:

(1) prescribe the manner in which the contract is to be concluded and also the conditions under which either the call for tenders with a view to purchases by agreement, or the contract awarded after public tender shall be effected;

(2) approve contracts and decisions regarding tenders.

In the case of supplies of a cost exceeding 100,000 francs the procedure shall be by public tender.

Article 42. The anchorage dues existing in virtue of the ancient treaties of commerce shall be replaced by the berthage dues provided for under the port concession.

Article 43. The Administration of Tangier will ensure that any disputes which may arise between the port concessionary company and the Tangier-Fez railway company shall be settled by arbitration as provided respectively in the conditions attached to the two concessions.

Article 44. As regards the Tangier-Fez railway, the Administration of Tangier shall have, within the limits of the Zone, all the rights and obligations accruing to it under the Franco-Spanish Protocol of November 27, 1912, and the concession of March 18, 1914, and its annexes.

Any supplementary conditions attached to the concession by agreement between the French and Spanish Governments, before the entry into force of the present statute, shall apply to the Tangier Zone.

Article 45. Subject to any stipulation to the contrary in the present convention, the rights and obligations accruing from any concession granted in the Tangier Zone before the entry into force of the present convention shall be transferred to the said Zone.

Any concession granted in the future by the Tangier Zone for a period exceeding the duration of the present convention, and that of the periods for which it may be renewed, will only be binding on the Shereefian Government, in the event of non-renewal of the statute, if the said government has, previously, formally approved such concession at the instance of the applicant.

Article 46. There shall be created a budget for the Tangier Zone. This budget will be drawn up and executed according to the rules laid down in the annexed organic *dahir*.

Article 47. Public security in the Zone shall be assured exclusively by a force of native gendarmerie placed at the disposal of the Administrator.

The strength of this force shall be fixed at a maximum of 400 men for a period of twelve months from the date of its formation.

On the expiry of this period of twelve months the strength shall be fixed at 250 men and shall not be either increased or reduced without the unanimous consent of the Committee of Control.

From the date of the formation of the gendarmerie until the 31st December, 1928, the Spanish and French Governments shall contribute to the cost of this force by utilizing the credits made available by the dissolution of the existing *tabors*. After this date and until the end of the period of twelve months referred to above, the two governments shall pay to the Zone a subvention representing the difference between the sum of 1,500,000 francs, which the Zone must provide in its budget for the maintenance of the gendarmerie, and the actual cost of the force. Each of the two governments shall pay one half of the said subvention.

On the expiry of the said period the Spanish and French Governments shall bear in equal parts the supplementary cost occasioned by the maintenance of the gendarmerie at 250 men, namely, 350,000 francs each. The sum of 1,500,000 francs voted in the budget of the Zone will thus be raised to 2,200,000 francs, which represents the estimated cost of the force.

The gendarmerie shall be recruited from each of the existing *tabors* in equal numbers. Equality between the French and Spanish elements shall be maintained both when the strength of the force is reduced and when vacancies occur.

The gendarmerie shall be commanded by a Spanish officer of the rank of major, who will have a French second-in-command of the rank of Captain. The European *cadre* shall contain an equal proportion of French and Spanish officers and non-commissioned officers. In view of the international character of the force it may comprise officers and non-commissioned officers belonging to other nationalities.

The gendarmerie may be garrisoned in the town of Tangier and maintain posts in the surrounding country.

The regulations respecting the gendarmerie are annexed to the present convention.

Article 48. An international tribunal, called the Mixed Court of Tangier, shall be responsible for the administration of justice over nationals of foreign Powers. It shall be composed of magistrates of Belgian, British, Spanish, French and Italian nationality.

The legal representation of the public interests will be entrusted to two magistrates, one French and the other Spanish.

The Mixed Court at Tangier is the subject of the annexed special *dahir*. It will replace the existing consular jurisdictions.

The *dahir* instituting the Mixed Court at Tangier can only be modified with the consent of all the Powers signatories of the Act of Algeciras.

The relations of the judicial authorities of the French and Spanish Zones with the Mixed Court of Tangier will be governed by the agreement of December 29, 1916, concerning the relations between the judicial authorities of these two Zones.

The three governments undertake that the preparation of the codes necessary for the functioning of the court shall be completed within three

months from the date of signature of the present convention. These codes are as follows

Code respecting the civil status of foreigners in the Zone.

Commercial Code

Penal Code.

Code of Criminal Procedure

Code of obligations and contracts.

Code of civil procedure with an annex fixing the Court expenses.

Registration Code.

Article 49. From the date of the entry into force of the new administration, the diplomatic agencies at Tangier will be replaced by consulates.

Article 50 The existing commissions and committees at Tangier shall be abolished.

The duty of fixing the scale of custom values applicable in the three Zones, which at present devolves upon the commission of custom values, will be entrusted to a commission composed of representatives of the three Zones. This commission will meet in Tangier at least twice a year.

Should protests be made on the ground of economic inequality against the decisions of the commission, in so far as they concern the Tangier Zone, such protests shall be submitted to the Committee of Control.

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